

Bye Law 9

PROFESSIONAL INDEMNITY INSURANCE

9.1 AUTHORITY AND COMMENCEMENT

A *Member* who holds a practising certificate must satisfy the *Institute* that he is able to meet claims against him for negligence arising out of his professional work through professional Indemnity Insurance.

All principals/partners/directors/*Affiliated Partners* and *Statutory Auditors* in a *Firm* must satisfy the *Institute* that they and the *Firm* are able to meet claims against him/them for negligence arising out of their professional work through Professional Indemnity Insurance in accordance with this *Bye Law*.

A *Member* of the *Institute* who is a partner or director of a *Firm* which is not registered by the *Institute* must satisfy the *Institute* that his is able to meet all claims against him arising out of his professional work through Professional Indemnity Insurance.

9.2 APPROVED INSURER

Any *Member*, *Firm* or *Affiliated Partner* or *Statutory Auditor* to whom this Bye Law 9 applies is required to have Professional Indemnity Insurance provided by an approved insurer

An Approved Insurer is an Insurer who is accepted by the *Institute* as as an Approved Insurer by satisfying the following criteria :

- (a) is licensed to transact insurance business within the Republic of Ireland; and
- (b) agrees to supply to the *Institute* such information as may be reasonably required; and
- (c) is otherwise acceptable to the *Institute*.

9.3 MINIMUM LIMIT OF INDEMNITY

9.3.1

The minimum annual limit of indemnity, for any one claim, shall be the higher of two and one half times the gross fee income of the practice for its last financial year or in the case of a sole practitioner, €70,000 or in any other case €130,000.

9.3.2

The minimum limit of indemnity shall not be construed as the recommended level which is a matter for each *Member* to consider carefully taking their individual circumstances into consideration. For

the purposes of these Bye-Laws an upper limit of €1,500,000 is acceptable.

9.3.3

In addition, firms authorised to conduct investment business activities in accordance with Bye Law 14, Investment Business Regulations, must obtain a minimum cover of €1,300,380 in respect of each and every claim and €1,924,560 in aggregate per year for all claims. This cover should be ring fenced in respect of the firm's investment business activities.

These minimum levels do not apply to those firms who hold Category 1A investment business authorisation or who have not conducted any investment business over the previous twelve months. Such firms are subject to the indemnity levels outlined in 9.3.1 and 9.3.2.

9.3.4

In addition, firms who accept an appointment as a liquidator of a company pursuant to S.633 of the Companies Act 2014 and includes a provisional liquidator, must hold professional indemnity insurance that meets the requirements of the Companies Act 2014 (Professional Indemnity Insurance) (Liquidators) Regulations 2016 or any enactment or re-enactment thereof. These regulations provide for a limit of liability for each and every claim of not less than €1,500,000 (exclusive of defence costs) and provide cover for defence costs.

9.3.5

The Self Insured Deductible

The self-insured deductible (excess) shall not exceed €25,000 each and every claim, multiplied by the number of principals.

9.3.6

Gross Fee Income

For the purpose of these Bye-Laws, Gross Fee Income means all income of the practice which is:

- billed as fees, including Fees for personal appointments in respect of work, or
- paid by third parties as commission or brokerage, or
- income in respect of work sub-contracted to others;

but excludes the recovery of expenses and disbursements which do not form part of the chargeable fees for *Professional* services rendered and, in either case V.A.T.

9.3.7

Retroactive Cover

Professional indemnity insurance shall include retroactive cover for liabilities arising from work carried out previously.

Where a retroactive date is included on a policy, it shall not predate a period of six years or if the firm has been in existence for less than six years, from the

date of the inception of the firm, except for claims or potential claims known about at the time the insurance was first taken out.

9.3.8

Practice Mergers, Divisions etc.

Upon amalgamation, merger, division, or reorganisation of a *Firm* or *Firms* it shall be the duty of the Compliance Principal concerned to ensure continued compliance with the terms of these Bye-Laws in relation to *Professional Indemnity Insurance* cover. It shall be the duty of all *Members* covered by this Bye Law to ensure that they have appropriate Insurance cover in accordance with this Bye Law. It shall be the duty of every Principal, Partner, Director and *Affiliated Partner* and *Statutory Auditor* in a *Firm* to ensure that they have appropriate insurance cover in accordance with this Bye Law under the *Firm's* insurance cover.

9.3.9

Cessation of Practice

Members who absolutely cease to engage in *Public Practice* shall ensure that they are covered by qualifying insurance for at least twenty four *Months* after they cease to practice. This is the minimum period for which insurance is required but it is recommended that this cover is maintained for not less than six years following cessation. Such cover may be achieved through the continuing insurance of the practice from which they have retired, or of its successor, or through a policy particular to the *Member* concerned. The terms and extent of this cover must continue to meet the requirement of these Bye-Laws. The gross fee income in the year preceding cessation of business shall be used to calculate the minimum level of cover.

In respect of the insured's former practice as a liquidator the maintenance of insurance in run-off shall provide for a limit of liability for each and every claim (exclusive of defence costs) of not less than €1,500,000 and provide for defence costs. This cover shall be maintained for the first six years from the date upon which the insured's past period of cover expires.

9.3.10

A *Member* who cannot obtain professional indemnity insurance cover will not be eligible for the grant or renewal of his practising certificate.

Where a *Member* has a practising certificate and does not have or ceases to have professional indemnity insurance cover his practising certificate shall automatically and immediately be withdrawn.

9.3.11

A *Firm* who cannot obtain cover in accordance with this Bye Law 9 will not be eligible for the grant or renewal of its registration

Where a *Firm* is registered with the *Institute* and does not have or ceases to have insurance cover in accordance with this Bye Law 9 its registration shall automatically and immediately be withdrawn.

9.4 **REPORTING**

All *Members*, *Firms*, *Affiliated Partners* and *Statutory Auditors* to whom this Bye-Law 9 applies shall submit annually, at a time and in such form as the *Institute* shall require, evidence that they are covered by *Professional* indemnity cover in accordance with this Bye Law 9.

A *Member* of the *Institute* who is a partner or director of a *Firm* which is not registered by the *Institute* must provide evidence of continuing professional indemnity insurance on request from the *Institute*.