

# Professional Standards Scheme

## 2024-29 Scheme Information Sheet



### Professional Standards Scheme 2024 – 2029

The Law Society's current Professional Standards Scheme (Scheme) commenced on 1 July 2019 and will be concluding on 30 June 2024.

Significant work has been undertaken in collaboration with the Professional Standards Council (PSC) to complete the Scheme Application Framework for submission in sufficient time to allow for a review of the application, as well as the public consultation period before the proposed commencement of the new Scheme on 1 July 2024.

On 2<sup>nd</sup> February 2024, the PSC resolved to approve the Law Society's Scheme pursuant to section 20 of the Professional Standards Act 1997 (WA) (Act).

This is the third Scheme that has been approved for the Law Society and will remain in effect for five years commencing 1 July 2024.

Notice of the Scheme was gazetted by the Attorney General on 8<sup>th</sup> March 2024.

### The Scheme

As with the previous Scheme, the new Scheme provides a significant benefit to Law Society members in private practice, limiting occupational liability to the extent that it may be limited under the Act.

The Scheme caps occupational liability of participating members to an amount of \$1.5 million, \$5 million or \$10 million depending on the insurance policies and total annual fee income of the law practice.

The new Scheme will not apply to claims prior to its date of commencement.

**All current participants are invited to renew their Scheme inclusion as normal for the new membership year, that will commence 1 July 2024.**

**Renewals will commence on 1 June 2024 to 30 June 2024.**

As with the current Scheme, you are welcome to request participation at any point throughout the membership year should the need arise. You can do this by completing the participant information form found on our website [here](#).

### Exemption

**If you are currently exempt from the Law Society Scheme, you will need to re-submit an exemption application for the 2024-29 period.**

If you wish to seek exemption under the new Scheme also, please complete a new exemption application **no later than 30 April 2024**.

You can complete the application for exemption using our online form.

As with the previous Scheme, the new Scheme **is an opt-out Scheme** which, subject to the provisions of the Act, applies to Law Society members.

Subject to the Act, members may "opt-out" by applying for exemption from the Scheme by completing the Application for Exemption.

The Scheme will cease to apply to such a member from the date the exemption is granted.

Hard copy forms are no longer available to download from our website. Please forward all exemption queries via email to [pss@lawsocietywa.asn.au](mailto:pss@lawsocietywa.asn.au).

You can complete the application for exemption using our online form linked below.

[Application for Exemption](#)

Failure to provide a completed Application for Exemption may make you liable to implement the compliance requirements of the Act and for the fee which the Law Society remits to the PSC on behalf of all eligible members.

## New Exemption Information Under the 2024-29 Scheme

It is important to note that the newly approved Scheme has one key differentiation to the previous Scheme for exemptions.

Under the new Scheme, ordinary and life Law Society members holding an Australian Practising Certificate who are a:

- Corporate Legal Practitioner or,
- Government Legal Practitioner

are automatically ineligible for Scheme inclusion and thus no longer need to complete an application for exemption under Clause 2.1.1 of the [2024-29 Law Society of Western Australia Scheme Document](#).

**If you fall under one of these categories, please ensure that your records with the Law Society are currently up to date otherwise, the exclusion will not apply to you in our records.**

All other ordinary and life Law Society members holding an Australian Practising Certificate who do not wish to participate under the Scheme are required to complete an application for exemption as per the previous Scheme.

## Can a Firm Submit 1 Exemption Form for All Practitioners at the Firm?

**No.** Application for exemption from the Scheme **must be done individually** as stipulated under Clause 2.2 of the 2024-29 Law Society of Western Australia Scheme Document.

This will only take each practitioner a minute of their time to submit online themselves.

## Exemption from the Law Society Scheme v Exemption for Professional Indemnity Insurance

The application for exemption from the Law Society's Professional Standards Scheme **is not an exemption to hold or be covered by an approved Professional Indemnity (PI) insurance policy.**

From 1 July 2022, being the date of commencement of the Uniform Law, these exemptions must be made directly to and be determined by the Legal Practice Board WA and Law Mutual (WA) no longer have a role in an exemption application for compulsory PI insurance.

For further information on exemption for PI Insurance, please refer to the [Legal Practice Board \(WA\) website](#).

## Is the Scheme Professional Indemnity Insurance?

**No.** The Scheme is not an insurance product and does not affect a practitioner's requirement to obtain insurance through Law Mutual (WA), or otherwise as applicable. Compulsory PI insurance must cover the amount up to the liability cap.

Scheme participants must have valid PI insurance arrangements in place under the Scheme Insurance Standards in order to participate. If a Scheme participating member is not able to satisfy the Court that he or she has the requisite insurance policy, or if the amount payable under his or her insurance policy is less than the amount of the relevant monetary ceiling specified in the Scheme, he or she will not be entitled to rely on the Scheme to limit his or her liability for damages.

The professional indemnity insurance scheme run by Law Mutual (WA) includes defence costs as well as damages up to \$2 million.

Members should seek their own advice regarding top-up insurance. We are prohibited from providing legal advice and this commentary is not meant to be construed as legal advice.

**If you have any questions about the Scheme or need assistance with any of the forms, please see our [website](#) or contact the team any time at [pss@lawsocietywa.asn.au](mailto:pss@lawsocietywa.asn.au).**

## FURTHER INFORMATION

Further information is available online at [lawsocietywa.asn.au](http://lawsocietywa.asn.au) or by contacting the Scheme Coordinator at [pss@lawsocietywa.asn.au](mailto:pss@lawsocietywa.asn.au). Information is also available from the Professional Standards Council at [www.psc.gov.au](http://www.psc.gov.au).

**STANDARD DISCLAIMER:** The Professional Standards Scheme is administered by the Law Society of Western Australia. The Law Society is unable to provide any legal advice and gives no warranties and makes no representations as to whether any claim brought against a Participating Member or Law Practice will be covered by the Scheme. Participating Members should rely on their own enquires and assessments, specifically as to the adequacy or otherwise of any insurance arrangements and as to the consistency or otherwise of such arrangements with either the Scheme or the Act and seek their own independent legal advice.

