

SRA Indemnity Insurance Rules

Guidance, changes, terms, notes and tags

These rules require firms that are authorised by the SRA to take out and maintain professional indemnity insurance. They do not apply to solicitors, RELs and RFLs that practise outside SRA authorised firms.

Part 1: General

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Rule 1: Application

1.1 These rules apply to authorised bodies and their principals

Part 2: Responsibility and monitoring

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Rule 2: Obligation to effect insurance

2.1 An authorised body carrying on a practice during any indemnity period beginning on or after 25 November 2019 must take out and maintain qualifying insurance under these rules with a participating insurer.

2.2 In respect of its obligation under rule 2.1, an authorised body must obtain a policy of qualifying insurance prior to the expiry of the policy period that provides cover incepting on and with effect from the expiry of the policy period.

2.3 If the authorised body has been unable to comply with rule 2.2, the authorised body must obtain a policy of qualifying insurance during or prior to the expiry of the extended policy period that provides cover incepting on and with effect from the expiry of the policy period.

2.4 If the authorised body has been unable to comply with either rule 2.2 or rule 2.3, the authorised body must cease practice promptly, and by no later than the expiry of the cessation period unless the authorised body obtains a policy of qualifying insurance during or prior to the expiry of the cessation period that provides cover incepting on and with effect from the expiry of the policy period and covers all

activities in connection with private legal practice carried out by the authorised body including, without limitation, any carried out in breach of rule 4.2.

Rule 3: Adequate and appropriate insurance

- 3.1** Notwithstanding rule 2.1 above, an authorised body must take out and maintain professional indemnity insurance that provides adequate and appropriate cover in respect of current or past practice taking into account any alternative arrangements the body or its clients may make.
- 3.2** An authorised body must ensure that its clients have the benefit of the indemnity insurance required under these rules and must not exclude or attempt to exclude liability below the minimum level of cover required under these rules.
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Rule 4: Responsibility

- 4.1** Each authorised body and any principal of such a body, must ensure that the authorised body complies with these rules.
- 4.2** Each authorised body that has been unable to obtain a policy of qualifying insurance prior to the expiration of the extended policy period and any principal of such a body, must ensure that the authorised body and each principal or employee of the body, undertakes no activities in connection with private legal practice and accepts no instructions in respect of any such activities during the cessation period save to the extent that the activity is necessary in connection with the discharge of its obligations within the scope of the authorised body's existing instructions.
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Rule 5: Insolvency of participating insurer

- 5.1** If an authorised body is carrying on a practice which is being provided with qualifying insurance by a participating insurer (whether alone or together with another participating insurer) and that participating insurer is the subject of an insolvency event then the authorised body and any principal of the body must ensure that the authorised body has in place qualifying insurance with another participating insurer as soon as may be reasonably practicable and in any event within four weeks of such insolvency event.
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Rule 6: Monitoring

- 6.1** The SR4 may require from an authorised body or any principal in an authorised body information and evidence it may reasonably require to satisfy itself that the body has complied with these rules.
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Rule 7: RELs

- 7.1** The provisions contained in annex 2 to these rules apply to an authorised body that has at least one principal who is an REL.
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Part 3: Reporting

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Rule 8: Use of information

- 8.1** Each authorised body must notify the SRA (or such person as the SRA may notify to the authorised body from time to time) and its participating insurer in writing as soon as reasonably practicable and in any event no later than five business days after the date on which:
- (a) the authorised body enters an extended policy period
 - (b) the authorised body has entered the cessation period and
 - (c) where the authorised body is in the extended policy period or the cessation period the authorised body has obtained a policy of qualifying insurance and in such case the notification must include the name of the participating insurer who has issued the policy of qualifying insurance and the policy number.
- 8.2** The SRA may, without limitation and in its absolute discretion, disclose and make available for public inspection the identity of an authorised body's participating insurer.

Rule 9: Details of participating insurer

- 9.1** This rule is in addition to any obligations imposed on the authorised body under the Provision of Services Regulations 2009.
- 9.2** If a claimant asserts a claim against an authorised body or any person insured under that authorised body's policy and the claim relates to any matter within the scope of cover of the MTC the authorised body and any person who is at the relevant time a principal in that authorised body must, upon request by that claimant by any person insured under that authorised body's policy or by any other person with a legitimate interest, provide the following details in relation to that authorised body's policy:
- (a) the name of the participating insurer who issued the policy
 - (b) the policy number; and
 - (c) the address and contact details of the participating insurer for the purpose of making a claim under the policy
- in each case in respect of the policy which it is reasonably believed to be the relevant policy to respond to the claim or, if applicable, the fact that the authorised body or person against whom the claim is asserted is covered by supplementary run-off cover.
- 9.3** In the case of an authorised body which has ceased practice any person who was a principal in that authorised body immediately before that body ceased practice must comply with rule 9.2.
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Part 4: Transitionals

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Rule 10: Transitionals and savings

- 10.1** For the purposes of the Sol (including without limitation section 10 of that Act), any person who is in breach of any rule or part of any rule under the Solicitors' Indemnity Insurance Rules 2000 to 2010 or SRA Indemnity Insurance Rules 2011 to 2013 will be deemed, for so long as that person remains in breach, not to be complying with these rules.

Annex 1

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SRA Minimum Terms and Conditions of Professional Indemnity Insurance

1. Scope of cover

1.1 Civil liability

Subject to the limits in clause 2, the insurance must indemnify each insured against civil liability to the extent that it arises from private legal practice in connection with the insured firm's practice (including its prior practice and (unless run-off cover is provided in accordance with clause 5.3) any successor practice) provided that a claim in respect of such liability:

- (a) is first made against an insured during the period of insurance or
- (b) is made against an insured during or after the period of insurance and arising from circumstances first notified to the insurer during the period of insurance

1.2 Defence costs

The insurance must also indemnify the insured against defence costs in relation to:

- (a) any claim referred to in clause 1.1; or
- (b) any circumstances first notified to the insurer during the period of insurance or
- (c) any investigation or inquiry (save in respect of any disciplinary proceeding under the authority of the SRA and/or the Tribunal) during or after the period of insurance arising from any claim referred to in clause 1.1 or from circumstances first notified to the insurer during the period of insurance

1.3 The insured

For the purposes of the cover contemplated by clause 1.1, the insured must include:

- (a) the insured firm and
- (b) each service, administration, trustee or nominee company owned as at the date of occurrence of relevant circumstances by the insured firm and/or the principals of the insured firm and

- (c) each principal each former principal and each person who becomes a principal during the period of insurance of the insured firm or a company referred to in paragraph (b); and
- (d) each employee each former employee and each person who becomes during the period of insurance an employee of the insured firm or a company referred to in paragraph (b); and
- (e) the estate or legal personal representative of any deceased or legally incapacitated person referred to in paragraph (c) or (d).

1.4 Award by regulatory authority

The insurance must indemnify each insured against any amount paid or payable in accordance with the recommendation of the Office for Legal Complaints (including the Legal Ombudsman pursuant to section 137(2)(c) and section 137(4)(b) of the LSA) or any other regulatory authority to the same extent as it indemnifies the insured against civil liability provided that the insurer will have no liability in respect of any determination by the Legal Ombudsman pursuant to section 137(2)(b) of the LSA to refund any fees paid to the insured.

2. Limit of insurance cover

2.1 Any one claim The sum insured for any one claim (exclusive of defence costs) must be, where the insured firm is a relevant recognised body or a relevant licensed body (in respect of activities regulated by the SR4 in accordance with the terms of the body's licence) at least £3 million, and in all other cases, at least £2 million.

2.2 Defence costs There must be no monetary limit on the cover for defence costs.

2.3 Proportionate limit on defence costs Notwithstanding clauses 2.1 and 2.2, the insurance may provide that liability for defence costs in relation to a claim which exceeds the sum insured is limited to the proportion that the sum insured bears to the total amount paid or payable to dispose of the claim.

2.4 No other limit The insurance must not limit liability to any monetary amount (whether by way of an aggregate limit or otherwise) except as contemplated by clauses 2.1 to 2.3 (inclusive).

2.5 One claim The insurance may provide that, when considering what may be regarded as one claim for the purposes of the limits contemplated by clauses 2.1 to 2.3 (inclusive):

- (a) all claims against any one or more insured arising from:
 - (i) one act or omission;
 - (ii) one series of related acts or omissions;
 - (iii) the same act or omission, in a series of related matters or transactions;
 - (iv) similar acts or omissions, in a series of related matters or transactions, and
- (b) all claims against one or more insured arising from one matter or transaction will be regarded as one claim.

2.6 Multiple underwriters

2.6.1 The insurance may be underwritten by more than one insurer each of which must be a participating insurer provided that the insurance is fully underwritten.

2.6.2 Where the insurance is underwritten jointly by more than one insurer the insurance:

- (a) must state which participating insurers shall be the lead insurer;
- (b) may provide that each insurer shall be severally liable only for its respective proportion of liability in accordance with the terms of the insurance; and
- (c) (in addition to any proportionate limit on defence costs in accordance with clause 2.3), may provide that each insurer's liability for defence costs is further limited to the extent or the proportion of that insurer's liability (if any) in relation to the relevant claim

2.6.3 The insurer stated to be the lead insurer shall act as such including without limitation being responsible for the conduct of claims advancing defence costs (subject to clause 2.6.2(c)) and compromising and arranging the payment of claims. The liability of any insurer shall not be increased by virtue only of the fact that it is acting as lead insurer.

3. Excesses

- 3.1 The insurance may be subject to an excess of such monetary amount and on such terms as the insurer and the insured firm agree. Subject to clause 3.4, the excess may be 'self-insured' or partly or wholly insured without regard to these MTC
- 3.2 The insurance must provide that the excess deductible does not reduce the limit of liability contemplated by clause 2.1.
- 3.3 The excess must not apply to defence costs
- 3.4 The insurance must provide that, if an insured fails to pay to a claimant any amount which is within the excess within 30 days of it becoming due for payment, the claimant may give notice of the insured's default to the insurer whereupon the insurer is liable to remedy the default on the insured's behalf. The insurance may provide that any amount paid by the insurer to remedy such a default erodes the sum insured
- 3.5 The insurance may provide for multiple claims to be treated as one claim for the purposes of an excess contemplated by clause 3.1 on such terms as the insured firm and the insurer agree.
- 3.6 In the case of insurance written on an excess of loss basis, there shall be no excess except in relation to the primary layer.

4. Special conditions

- 4.1 No avoidance or repudiation
The insurance must provide that the insurer is not entitled to avoid or repudiate the insurance on any grounds whatsoever including, without limitation, any breach of the duty to make a fair presentation of the risk, or any misrepresentation, in each case whether fraudulent or not.
- 4.2 No adjustment or denial
The insurance must provide that the insurer is not entitled to reduce or deny its liability under the insurance on any grounds whatsoever including, without limitation, any breach of any term or condition of the insurance, except to the extent that one of the exclusions contemplated by clause 6 applies.
- 4.3 No cancellation
The insurance must provide that it cannot be cancelled except (in the case of (a), (b) or (c) below) by the agreement of both the insured firm and the insurer; and in any event only in circumstances where:
 - (a) the insured firm's practice is merged into a successor practice provided that there is insurance

complying with these MTC in relation to that successor practice in which case cancellation shall have effect no earlier than the date of such merger; or

- (b) replacement insurance, complying with the MTC in effect at its commencement, commences, in which case cancellation shall have effect no earlier than the date on which such replacement insurance commences; or
- (c) it subsequently transpires that the insured firm is not required under the SRA Indemnity Insurance Rules to effect a policy of qualifying insurance in which case cancellation shall have effect from the later of (a) the start of the relevant policy period and (b) the date on which the insured firm ceased to be required to effect a policy of qualifying insurance or such later date as the insured firm and the insurer may agree.

Cancellation must not affect the rights and obligations of the parties accrued under the insurance prior to the date from which cancellation has effect.

4.4 No set off

The insurance must provide that any amount payable by the insurer to indemnify an insured against civil liability to a claimant will be paid only to the claimant or at the claimant's direction, and that the insurer is not entitled to set-off against any such amount any payment due to it by any insured including, without limitation, any payment of premium or to reimburse the insurer.

4.5 No 'other insurance' provision

The insurance must not provide that the liability of the insurer is reduced or excluded by reason of the existence or availability of any other insurance other than: (i) as contemplated by clause 6.1; or (ii) where the insured having entered the extended policy period or cessation period obtains a policy of qualifying insurance that incepts from and with effect from the expiration of the policy period. For the avoidance of doubt and subject to the provisions of the participating insurer's agreement this requirement is not intended to affect any right of the insurer to claim contribution from any other insurer which is also liable to indemnify any insured.

4.6 No retroactive date

The insurance must not exclude or limit the liability of the insurer in respect of claims arising from incidents, occurrences, facts, matters, acts and/or omissions which occurred prior to a specified date.

4.7 Successor practice - 'double insurance'

The insurance may provide that, if the insured firm's practice is succeeded during the period of insurance and, as a result, a situation of 'double insurance' exists between two or more insurers of the successor practice contribution between insurers is to be determined in accordance with the relative numbers of principals of the owners of the constituent practices immediately prior to succession.

4.8 Resolution of disputes as to insurer of successor practice

The insurance must provide that, if there is a dispute as to whether a practice is a successor practice for the purposes of clauses 1.1 or 5.5, the insured and the insurer will take all reasonable steps (including, if appropriate, referring the dispute to arbitration) to resolve the dispute in conjunction with any related dispute between any other party which has insurance complying with these MTC and that party's insurer.

4.8A Conduct of a claim pending dispute resolution

The insurance must provide that, pending resolution of any coverage dispute and without prejudice to any issue in dispute, the insurer will, if so directed by the SRA conduct any claim, advance defence costs and, if appropriate, compromise and pay the claim. If the SRA is satisfied that:

- (a) the party requesting the direction has taken all reasonable steps to resolve the dispute with the other party/ies;
- (b) there is a reasonable prospect that the coverage dispute will be resolved or determined in the insured's favour; and
- (c) it is fair and equitable in all the circumstances for such direction to be given,

it may in its absolute discretion make such a direction.

4.9 Advancement of defence costs

The insurance must provide that the insurer will meet defence costs as and when they are incurred, including defence costs incurred on behalf of an insured who is alleged to have committed or condoned dishonesty or a fraudulent act or omission, provided that the insurer is not liable for defence costs incurred on behalf of that insured after the earlier of:

- (a) that insured admitting to the insurer the commission or condoning of such dishonesty, act or omission; or
- (b) a court or other judicial body finding that that insured was in fact guilty of such dishonesty, act or omission.

4.10 Variation of insurance terms

The terms of the insurance must provide that the insurer shall vary the terms of the insurance to give effect to any variation to the SRA Indemnity Insurance Rules, the Glossary and the MTC such variation to be implemented by the insurer:

- (a) on the date of any renewal or replacement of the insurance or any extension to the period of insurance occurring in that indemnity period or
- (b) on each date falling in 18 month intervals from the commencement of the policy period where no variation has occurred by reason of clause 4.10(a) within the immediately preceding 18 month period.

save that no variation shall be required under clause 4.10(b) where the date on which variation would have been required is a date within the extended policy period or the cessation period

4.11 MTC to prevail

The insurance must provide that:

- (a) the insurance is to be construed or rectified so as to comply with the requirements of these MTC (including any amendment pursuant to clause 4.10); and
- (b) any provision which is inconsistent with these MTC (including any amendment pursuant to clause 4.10) is to be severed or rectified to comply.

5. Extended policy period and run-off cover

5.1 Extended policy period

The insurance must provide cover complying with the MTC for the duration of the extended policy period where an insured firm has not, prior to the expiration of the policy period obtained insurance complying with the MTC and incepting on and with effect from the day immediately following the expiration of the policy period

5.2 Cessation period

The insurance must provide cover complying with the MTC for the duration of the cessation period where

an insured firm has not, prior to the expiration of the extended policy period obtained insurance complying with the MTC and incepting on and with effect from the day immediately following the expiration of the policy period

5.3 Run-off cover

Subject to clause 5.7 the insurance must provide run-off cover:

- (a) in the event of a cessation that occurs during or on expiration of the policy period
- (b) in the event of a cessation that occurs during the extended policy period or the cessation period or
- (c) from the expiration of the cessation period

and for the purposes of this clause 5.3 and clause 5.7, an insured firm's practice shall (without limitation) be regarded as ceasing if (and with effect from the date upon which) the insured firm becomes a non-SRA firm

5.4 Scope of run-off cover

The run-off cover referred to in clause 5.3 must:

- (a) indemnify each insured in accordance with clauses 1.1 to 1.4;
- (b) provide a minimum level of insurance cover in accordance with clauses 2.1 and 2.3;
- (c) be subject to the exclusions and conditions of the insurance applicable in accordance with the MTC and
- (d) extend the period of insurance for an additional six years (ending on the sixth anniversary of the date upon which, but for this requirement, it would have ended, and for the avoidance of doubt, including the extended policy period and cessation period) save that in respect of run-off cover provided under clause 5.3(c), such run-off cover shall not operate to indemnify any regulated insured for civil liability arising from acts or omissions of such insured occurring after the expiration of the cessation period

5.5 Succession

The insurance must provide that, if there is a successor practice to the ceased practice the insured firm may elect before its cessation whether it wishes the ceased practice

- (a) to be insured under the run-off cover referred to in clause 5.3(a) or
- (b) provided that there is insurance complying with these MTC in relation to that successor practice to be insured as a prior practice under such insurance.

If the insured firm fails to make an election and/or fails to pay any premium due under the terms of the policy before its cessation clause 5.5(b) above shall apply.

5.6 Suspended practices

The insurance must provide that, where run-off cover has been activated in accordance with this clause 5, but where the insured firm's practice restarts, the insurer may (but shall not be obliged to) cancel such run-off cover, on such terms as may be agreed, provided that:

- (a) there is insurance complying with these MTC in relation to that insured firm in force on the date of cancellation;
- (b) the participating insurer providing such insurance confirms in writing to the insured firm and the insurer (if different) that:

- (i) it is providing insurance complying with these MTC in relation to that insured firm for the then current indemnity period and
- (ii) it is doing so on the basis that the insured firm's practice is regarded as being a continuation of the insured firm's practice prior to cessation and that accordingly it is liable for claims against the insured firm arising from incidents, occurrences, facts, matters, acts and/or omissions which occurred prior to cessation

5.7 Transfer to another approved regulator

Clause 5.3 above does not apply where the insured firm becomes an authorised non-SRA firm provided that the approved regulator with which the authorised non-SRA firm is authorised, is a signatory to a protocol on terms agreed by the SRA which relates to switching between approved regulators

6. Exclusions

The insurance must not exclude or limit the liability of the insurer except to the extent that any claim or related defence costs arise from the matters set out in this clause 6.

6.1 Prior cover

Any claim in respect of which the insured is entitled to be indemnified under a professional indemnity insurance contract for a period earlier than the period of insurance whether by reason of notification of circumstances under the earlier contract or otherwise.

6.2 Death or bodily injury

Any liability of any insured for causing or contributing to death or bodily injury, except that the insurance must nonetheless cover liability for psychological injury or emotional distress which arises from a breach of duty in the performance of (or failure to perform) legal work.

6.3 Property damage

Any liability of any insured for causing or contributing to damage to, or destruction or physical loss of, any property (other than property in the care, custody or control of any insured in connection with the insured firm's practice and not occupied or used in the course of the insured firm's practice), except that the insurance must nonetheless cover liability for such damage, destruction or loss which arises from breach of duty in the performance of (or failure to perform) legal work.

6.4 Partnership disputes

Any actual or alleged breach of the insured firm's partnership or shareholder agreement or arrangements, including any equivalent agreement or arrangement where the insured firm is an LLP or a company without a share capital.

6.5 Employment breaches, discrimination, etc.

Wrongful dismissal, repudiation or breach of an employment contract or arrangement, termination of a training contract, harassment, discrimination or like conduct in relation to any partnership or shareholder agreement or arrangement or the equivalent where the insured firm is an LLP or a company without a share capital, or in relation to any employment or training agreement or arrangement.

6.6 Debts, trading liabilities and funding arrangements

Any:

- (a) trading or personal debt of any insured or
- (b) legal liability assumed or accepted by an insured or an insured firm under any contract or

agreement for the supply to, or use by, the insured or insured firm of goods or services in the course of the insured firm's practice save that this exclusion 6.6(b) will not apply to any legal liability arising in the course of an insured firm's practice in connection with its or any insured's use of or access to the HM Land Registry network (including, without limitation, access under a Network Access Agreement made under the Land Registration (Network Access) Rules and the Land Registration (Electronic Communications) Order 2007) other than an obligation to pay search fees or other charges for searches or services provided by HM Land Registry to the insured firm or

- (c) guarantee indemnity or undertaking by any particular insured in connection with the provision of finance, property, assistance or other benefit or advantage directly or indirectly to that insured

6.7 Fines, penalties, etc

Any:

- (a) fine or penalty; or
- (b) award of punitive, exemplary or like damages under the law of the United States of America or Canada, other than in respect of defamation; or
- (c) order or agreement to pay the costs of a complainant, regulator, investigator or prosecutor of any professional conduct complaint against, or investigation into the professional conduct of, any insured

6.8 Fraud or dishonesty

The insurance may exclude liability of the insurer to indemnify any particular person to the extent that any civil liability or related defence costs arise from dishonesty or a fraudulent act or omission committed or condoned by that person except that:

- (a) the insurance must nonetheless cover each other insured and
- (b) the insurance must provide that no dishonesty, act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company all directors of that company or in the case of an LLP all members of that LLP

6.9 Directors' or officers' liability

The insurance may exclude liability of the insurer to indemnify any natural person in their capacity as a member of an LLP or director or officer of a body corporate (other than a recognised body, licensed body (in relation to the activities regulated by the SR4 in accordance with the terms of the body's licence) or a service, administration, trustee or nominee company referred to in clause 1.3(b) except that:

- (a) the insurance must nonetheless cover any liability of that person which arises from a breach of duty in the performance of (or failure to perform) legal work; and
- (b) the insurance must nonetheless cover each other insured against any vicarious or joint liability.

6.10 War and terrorism, and asbestos

The insurance may exclude, by way of an exclusion or endorsement, liability of the insurer to indemnify any insured in respect of, or in any way in connection with:

- (a) terrorism, war or other hostilities; and/or
- (b) asbestos, or any actual or alleged asbestos-related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos,

provided that any such exclusion or endorsement does not exclude or limit any liability of the insurer to indemnify any insured against civil liability or related defence costs arising from any actual or alleged breach of duty in the performance of (or failure to perform) legal work or failure to discharge or fulfil any duty incidental to the insured firm's practice or to the conduct of private legal practice

6.11 International trade sanctions

The insurer shall be deemed not to provide cover and shall not be liable to pay any claim or provide any benefit under the insurance to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Australia or United States of America.

6.12 Cyber, infrastructure and Data Protection Law

The insurance may exclude, by way of an exclusion or endorsement, the liability of the insurer to indemnify any insured in respect of, or in any way in connection with:

- (a) a cyber-act
- (b) a partial or total failure of any computer system
- (c) the receipt or transmission of malware, malicious code or similar by the insured or any other party acting on behalf of the insured
- (d) the failure or interruption of services relating to core infrastructure
- (e) a breach of Data Protection Law

provided that any such exclusion or endorsement does not exclude or limit any liability of the insurer to indemnify any insured against:

- i. civil liability referred to in clause 1.1 (including the obligation to remedy a breach of the SRA Accounts Rules as described in the definition of claim)
- ii. defence costs referred to in clause 1.2 that would have been covered under the insurance even absent an event at 6(a) to 6(e) detailed above
- iii. any award by a regulatory authority referred to in clause 1.4

In addition, any such exclusion or endorsement should not exclude or limit any liability of the insurer to indemnify any insured against matters referred to at (i) (ii) and (iii) above in circumstances where automated technology has been utilised.

7. General conditions

7.1 As agreed

The insurance may contain such general conditions as are agreed between the insurer and the insured firm but the insurance must provide that the special conditions required by clause 4 prevail to the extent of any inconsistency.

7.2 Reimbursement

The insurance may provide that each insured who:

- (a) committed or condoned (whether knowingly or recklessly):
 - (i) any breach of the duty to make a fair presentation of the risk, or misrepresentation; or

- (ii) any breach of the terms or conditions of the insurance; or
 - (iii) dishonesty or any fraudulent act or omission; or
- (b) undertakes, either itself or by any of its principals employees consultants or agents or any person on its behalf, any activity during the cessation period in connection with private legal practices save to the extent that the activity is undertaken to discharge any of its obligations within the scope of its existing instructions or is necessary in connection with the discharge of any such obligation.

will reimburse the insurer to the extent that is just and equitable having regard to the prejudice caused to the insurer's interests by such failure to make a fair presentation of the risk, misrepresentation, breach, dishonesty, act or omission, provided that no insured's shall be required to make any such reimbursement to the extent that any such breach of the terms or conditions of the insurance was in order to comply with any applicable regulatory arrangements of the SR4

The insurance must provide that no failure to make a fair presentation of the risk, misrepresentation, breach, dishonesty, act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company all directors of that company or in the case of an LLP all members of that LLP

The insurance must provide further that any right of reimbursement contemplated by this clause 7.2 against any person referred to in clause 1.3(d) (or against the estate or legal personal representative of any such person if they die or become legally incapacitated) is limited to the extent that is just and equitable having regard to the prejudice caused to the insurer's interests by that person having committed or condoned (whether knowingly or recklessly) the failure to make a fair presentation of the risk, misrepresentation, breach, dishonesty, act or omission.

7.3 Reimbursement of defence costs

The insurance may provide that each insured will reimburse the insurer for defence costs advanced on that insured's behalf which the insurer is not ultimately liable to pay.

7.4 Reimbursement of the excess

The insurance may provide for those persons who are at any time during the period of insurance principals of the insured firm together with, in relation to a sole practitioner, any person held out as a partner of that practitioner, to reimburse the insurer for any excess paid by the insurer on an insured's behalf. The sum insured must be reinstated to the extent of reimbursement of any amount which eroded it as contemplated by clause 3.4.

7.5 Reimbursement of moneys paid pending dispute resolution

The insurance may provide that each insured will reimburse the insurer following resolution of any coverage dispute for any amount paid by the insurer on that insured's behalf which, on the basis of the resolution of the dispute, the insurer is not ultimately liable to pay.

7.6 Withholding assets or entitlements

The insurance may require the insured firm to account to the insurer for any asset or entitlement of any person who committed or condoned any dishonesty or fraudulent act or omission, provided that the insured firm is legally entitled to withhold that asset or entitlement from that person

7.7 Premium

The premium may be calculated on such basis as the insurer determines and the insured firm accepts including, without limitation, a basis which recognises claims history, categories of work performed by the

insured firm numbers of principals and employees revenue derived from the insured firm's practice and other risk factors determined by the insurer.

8. Law and Jurisdiction

These MTC and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and subject to the jurisdiction of the courts of England and Wales.

Annex 2

[Open all](#)

Special provisions for RELs

1. If:

- (a) one or more of the principals of an insured firm are RELs who claim that professional indemnity insurance, or a professional indemnity fund, under their home professional rules provides the insured firm's practice with professional indemnity cover in all respects equivalent in its conditions and extent to that which would be provided under the MTC (Full Home State Cover);
- (b) no more than 25% of the principals of the insured firm are solicitors and
- (c) the SRA is so satisfied, (including, without limitation, by reason of any provider of the Full Home State Cover entering into such agreement as the SRA may require from time to time),

the insured firm and its principals shall for so long as such cover continues (and, where the SRA has required such agreement, for so long as such agreement remains in force and its requirements are complied with by the provider(s) of the Full Home State Cover that are party to it) be exempted from the obligation to take out and maintain qualifying insurance.

- #### 2.
- If on an application by one or more RELs who are principals in an insured firm the SRA is satisfied that the insured firm's practice has professional indemnity cover under home professional rules but that the equivalence is only partial (Partial Home State Cover) (including, without limitation, by reason of the provider of the Partial Home State Cover entering into such agreement as the SRA may require from time to time), the insured firm and its principals shall for so long as such cover continues (and, where the SRA has required such agreement, for so long as such agreement remains in force and its requirements are complied with by the provider(s) of the Partial Home State Cover that are party to it) be exempted from the obligation to take out and maintain qualifying insurance on condition that they take out and maintain a difference in conditions policy, which shall provide cover including the MTC as modified by the following changes (but not otherwise):

- (a) Clause 4.5 shall be deleted and replaced with the following:

4.5 No 'other insurance' provision

The insurance must not provide that the liability of the insurer is reduced or excluded by reason of the existence or availability of any other insurance other than as contemplated by

clauses 6.1 or 6.12. For the avoidance of doubt, this requirement is not intended to affect any right of the insurer to claim contribution from any other insurer which is also liable to indemnify any insured.

- (b) Clause 4.8 shall be deleted and replaced with the following:

4.8 Resolution of disputes

The insurance must provide that, if there is a dispute as to whether a practice is a successor practice for the purposes of clauses 1.1, or 5.5, the insured and the insurer will take all reasonable steps to resolve the dispute in conjunction with any related dispute between any other party which has insurance complying with these MTC and that party's insurer, and in conjunction with the provider of the Partial Home State Cover.

- (c) Clause 4.12 shall be added:

4.12 Period of insurance

The period of insurance must not expire prior to the date with effect on which the Partial Home State Cover expires or is avoided.

- (d) The following clause shall be added:

6.12 Partial Home State Cover

The insurance may exclude any liability of the insurer to the extent that any such liability is covered under the terms of the Partial Home State Cover irrespective of whether recovery is actually made in respect of such liability.

3. In the event of an insured firm which has the benefit of an exemption under paragraph 1 or paragraph 2 of this annex ceasing for whatever reason to enjoy that exemption but continuing to carry on a practice it shall be treated for all the purposes of these rules as though it had commenced the practice on the date when such exemption ceased.
4. Rule 5 (Insolvency of Participating Insurer) shall apply to an insured firm which has the benefit of an exemption under paragraph 1 or paragraph 2 of this annex in like manner as though the insurance company or entity or fund providing professional indemnity cover under its home professional rules, on the basis of which exemption or partial exemption was granted, was a participating insurer.
5. In the case of an insured firm which has the benefit of an exemption under paragraph 2 of this annex all the provisions of these rules shall apply to the additional professional indemnity insurance required under that paragraph to be taken out with a participating insurer.

Supplemental notes

Made by the SRA Board on 5 December 2018.

Made under sections 31 and 37 of the Solicitors Act 1974, section 9 of the Administration of Justice Act 1985, and section 83 of, and paragraph 19 of Schedule 11 to the Legal Services Act 2007.

The SRA Indemnity Insurance Rules 2013 do not apply in respect of any indemnity period beginning on or after 24

November 2019 but they remain in force in respect of the [indemnity period](#) from 1 October 2013 to 24 November 2019 inclusive.

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