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**LEGAL PRACTITIONERS AMENDMENT ACT 1980**

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**LEGAL PRACTITIONERS AMENDMENT ACT 1980**

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**No. 41 of 1980**

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**AN ACT to amend the Legal Practitioners Act 1959 for the purpose of authorizing the council of the Law Society of Tasmania to make rules in respect of professional indemnity insurance for solicitors who are members of firms and for other persons who have been members of firms and to validate the taking out and operation of the existing master policy of professional indemnity insurance for those persons.**

**[Royal Assent 2 September 1980]**

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Legal Practitioners Amendment Act 1980*. Short title.

**2**—In this Act, the *Legal Practitioners Act 1959*\* is referred to as the Principal Act. Principal Act.

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\* No. 78 of 1959. For this Act, as amended to 1968, see Appendix D to the Annual Volume of Statutes for 1969. Subsequently amended by No. 72 of 1970, No. 102 of 1971, No. 52 of 1972, No. 100 of 1973, No. 48 of 1974, No. 14 of 1975, No. 88 of 1976, and No. 3 of 1977.

Insertion of  
new Part VIA  
in Principal  
Act.

**3**—After Part VI of the Principal Act, the following Part is inserted:—

## PART VIA

### PROFESSIONAL INDEMNITY INSURANCE

Interpretation.

58A—In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“council” means the council of the Law Society;

“disciplinary committee” means the disciplinary committee appointed as provided by section 15 of the *Law Society Act 1962*;

“former practitioner” means a person who has been, and no longer is, one of the members, or the sole member, of a firm;

“Indemnity Rules” means the rules made by the council pursuant to section 58B (1);

“master policy” means a policy of insurance taken out and maintained by the Law Society pursuant to the Indemnity Rules;

“practitioner” means a practitioner who is one of the members, or the sole member, of a firm;

“professional indemnity insurance” means insurance against loss from claims of a kind referred to in section 58B (1).

The Indemnity  
Rules.  
Cf. *Queensland  
Law Society  
Act 1952*.  
1979, s. 5 (9).

58B—(1) The council may make rules providing for and with respect to indemnity against loss arising from claims in respect of any description of civil liability incurred by—

(a) a firm in connection with the practice of the members, or of the sole member, of the firm; and

(b) a person who was formerly a member, or the sole member, of a firm in connection with his practice as the sole member or one of the members of the firm.

(2) The Indemnity Rules may authorize or require the Law Society to take out and maintain professional indemnity insurance with an insurer carrying on insurance business and approved by the council for the purposes of that insurance.

(3) Without limiting the generality of subsection (1) or (2), the Indemnity Rules—

(a) may require firms to make payments by way of premiums on any master policy taken out and maintained by the Law Society pursuant to the Indemnity Rules;

(b) may specify circumstances in which a firm is, or firms are, exempt from the Indemnity Rules;

(c) may empower the council to take such steps as it considers necessary or expedient to ascertain whether or not the Indemnity Rules are being complied with; and

(d) may contain incidental, procedural, or supplementary provisions.

(4) Without prejudice to any of its other powers, the council has power to carry into effect any arrangements that it considers necessary or expedient for the provision of indemnity under or pursuant to the Indemnity Rules.

(5) If a firm fails to comply with the Indemnity Rules, the council or any other person may make an application to the disciplinary committee requiring the firm to answer a complaint by the person that the firm has failed to comply with those rules.

(6) An application under subsection (5) shall be made to, and be heard by, the disciplinary committee in accordance with rules made under section 17 of the *Law Society Act 1962*.

58c—The Secretary of the Law Society shall, on being requested to do so by a practitioner or former practitioner for whom professional indemnity insurance is provided under a master policy then in force and who attends his office during the ordinary business hours of that office—

Inspection or  
master policy,  
&c.

(a) make a copy of the master policy available for inspection by the practitioner free of charge;

- (b) permit the practitioner to take extracts from the copy free of charge; and
- (c) supply the practitioner with extracts from the copy or a copy of it on payment of such fee (if any) as may be imposed by the council.

Renumbering  
of Part VIA  
of Principal  
Act (Solicitors'  
Guarantee  
Fund).

**4**—Part VIA (second occurring) of the Principal Act is renumbered as Part VIB.

Validations and  
transitional  
provisions.

**5**—Schedule 1 has effect.

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## SCHEDULE 1

(Section 5)

## VALIDATIONS AND TRANSITIONAL PROVISIONS

## 1.—(1) In this Schedule—

Interpretation.

“approved insurer” means an insurer carrying on insurance business who is approved by the council;

“contract of insurance” has the meaning assigned to that expression by clause 2 (1).

(2) In this Schedule, “council”, “disciplinary committee”, “former practitioner”, “Indemnity Rules”, and “professional indemnity insurance” have the meanings respectively assigned to those expressions by section 58A of the Principal Act, as inserted by this Act.

2.—(1) The contract of insurance entered into on 1st March 1980 by the Law Society with an approved insurer and providing professional indemnity insurance for firms and former practitioners (in this Schedule referred to as “the contract of insurance”) shall be deemed to have been as lawfully and properly entered into by the Society as if the Indemnity Rules had been in force on that date and the contract had been entered into by the Society with the insurer pursuant to those rules. Validations.

(2) The payments by way of premium payable by firms under the contract of insurance shall be deemed to be as lawfully and properly payable by them as if the Indemnity Rules had been in force on 1st March 1980 and had required firms to make those payments.

3.—A firm that, on 1st March 1980, had a cover for professional indemnity insurance that was arranged under a policy taken out before that date (in this clause referred to as “the existing policy”) is exempted from making payments by way of premium under the contract of insurance until the expiry of the firm’s cover under the existing policy or until 28th February 1981, whichever first happens, if the council is satisfied that— Transitional provision exempting firms with cover for professional indemnity insurance other than under the contract of insurance.

(a) the amount of cover under the existing policy is equal to, or exceeds, the amount of the cover that, apart from this clause, would be required to be obtained by the firm under the contract of insurance;

(b) the existing policy provides professional indemnity insurance for the firm on conditions that are similar to those on which professional indemnity insurance is provided under the contract of insurance; and

(c) the firm would suffer financial loss if it is required to cancel the existing policy and obtain a cover under the contract of insurance.

Transitional provisions in respect of firms without cover under master policy and not exempted under clause 3.

4.—(1) A firm that, on 1st March 1980, did not have a cover for professional indemnity insurance under the contract of insurance and that is not exempted under clause 3 shall, before such date as is fixed by proclamation, obtain a cover for that insurance under that contract.

(2) If a firm to which subclause (1) applies does not comply with that subclause, the council or any other person may make an application to the disciplinary committee requiring the firm to answer a complaint by the person that the firm has failed to comply with that subclause.

(3) An application under subclause (2) shall be made to, and be heard by, the disciplinary committee in accordance with the rules made under section 17 of the *Law Society Act* 1962.