

Professional Indemnity Insurance Renewing & New Practice Questionnaire 2020/21

When completed please return this form to:

Records and Member Services
Queensland Law Society
Law Society House
GPO Box 1785
BRISBANE QLD 4001
Phone: 1300 367 757
Fax: 07 3842 5999
Email: records@qls.com.au

Legal information

Lexon Insurance Pte Ltd is a wholly owned subsidiary of the Queensland Law Society and is a captive insurer providing professional indemnity insurance to the QLS on behalf of the members of the Queensland Legal Profession in accordance with the Queensland Law Society Indemnity Rule 2005 (Qld).

Financial Services Reform Disclosure Notice

Pursuant to ASIC class order relief, the QLS and/or persons responsible for these matters are not licensed under the Corporations Act 2001 (Cth) in relation to the operation of the:

- a. Law Claims Levy Fund;
- b. Professional indemnity insurance arrangements made under the Queensland Law Society Indemnity Rule 1987 (Qld) and, from the repeal of that Rule, the Queensland Law Society Indemnity Rule 2005 (Qld); and
- c. Legal Practitioners Fidelity Guarantee Fund.

The QLS is not regulated under the Insurance Act 1973 (Cth).

Lexon is exempt from the requirement to hold an Australian financial services licence under the Corporations Act 2001 in respect of financial services.

Lexon is incorporated in Singapore and is regulated by the Monetary Authority of Singapore under Singaporean law, which differs from Australian law. Singapore has a system of financial supervision of insurers and you should consider whether to obtain further information about that.

Lexon is not authorised under the Insurance Act 1973 to conduct insurance business in Australia and is not subject to the provisions of that Act which establishes a system of financial supervision of general insurers in Australia.

Lexon has paid up capital of AUD \$19M and any disputes in relation to the terms of the Master Policy will be governed by Queensland law.

Lexon cannot be declared a general insurer for the purpose of Part VC of the Insurance Act 1973 (Cth) and, if Lexon becomes insolvent, you will not be covered by the financial claims scheme provided under Part VC of that Act.

Important information about this questionnaire

Pursuant to rule 10(2) of the Queensland Law Society Indemnity Rule 2005 (Qld), you are required to provide correct information in relation to your Law Practice's gross professional fees rendered and staff numbers. This will enable an accurate calculation of your insurance levies. Area of Practice information is again being collected this year to assist in ensuring the levy model remains appropriate for the Queensland profession.

This questionnaire requires underwriting information from your Law Practice. Any information collected will be used for insurance purposes including the calculation of your Professional Indemnity Insurance levies. Pursuant to rule 10(4) the Society is obliged to release this information to Lexon, including your personal information, which is entitled to use the information for insurance purposes. Lexon does not use the information for any other purpose and does not disclose the information to any other person, body or agency unless otherwise required by law to do so.

All information collected is subject to electronic/physical security and access is limited to only those persons administering the scheme. In accordance with the *Electronic Transactions (Queensland) Act 2001*, the Society may provide notices to you by electronic communication. By completing this Questionnaire, your consent to this form of contact is taken to be given.

The Society and Lexon may also use third parties to administer and deliver services and communications by email or mail. Some third party suppliers or their products and services are located overseas. Business details and personal information you provide may be transferred to an overseas recipient and stored overseas to administer such services and communications to you. By completing this Questionnaire, you agree to this transfer and Australian Privacy Principle 8.1 will not apply to this disclosure.

Aggregate, de-identified data, concerning gross professional fees and areas of practice is also used by the Society for statistical purposes in order to conduct research to identify the ongoing needs of the profession.

If you do not wish your details to be used for any one or more of the above purposes, you should advise the Society, GPO Box 1785, Brisbane Qld 4001 in writing.

QLS's privacy policy contains information about how you may access and apply to amend your personal information as well as how to complain about a breach of your privacy. It can be found on the QLS website, qls.com.au/About_QLS/Site_policies_disclaimers/Privacy_policy. Lexon Insurance's Privacy Policy is available at www.lexoninsurance.com.au/home/privacy.

Queensland Law Society Solicitors Professional Indemnity Scheme currently provides, always subject to its specific terms and conditions, an insurance policy of \$2,000,000 each and every Claim inclusive of defence costs, but exclusive of applicable excess/es, for each insured Law Practice. Top up insurance over and above that amount is also available.

In this questionnaire the following definitions apply:

Note 1: Prior Law Practice means:

- (1) A Law Practice (the "First Law Practice" – which shall include all predecessor practices determined as Prior Law Practices) which is a predecessor to a Law Practice (the "Successor Law Practice") which Successor Law Practice:
 - (a) holds itself out as being the successor to the First Law Practice, or as incorporating the First Law Practice, where the holding out can be expressed, implied or contained in any letterhead, note paper, business card, any form of electronic communication, publications, promotional material or is contained in any statement or declaration by the Successor Law Practice to any regulatory or taxation authority; or
 - (b) employs, or takes on as Principals, all or a majority in number of the Principals of the First Law Practice; or
 - (c) acquires the majority of the goodwill and/or assets and/or client files, or assumes the majority of the liabilities of the First Law Practice; or
 - (d) adopts the same name as the First Law Practice or a name which is similar to or substantially incorporates that name; or
 - (e) carries on business from the premises of the First Law Practice; or
 - (f) employs the majority of legal staff employed or previously employed by the First Law Practice.

Important information about this questionnaire (continued)

Note 1: Prior Law Practice means: (continued)

- (2) Where there are two or more Law Practices which meet the criteria in (1) for a Successor Law Practice, that Law Practice which Lexon considers, by application of these criteria to be most closely related to the First Law Practice, shall be deemed to be the Successor Law Practice.
- (3) Provided however, this Prior Law Practice definition does not apply to:
 - (a) a Law Practice that employs a sole practitioner in circumstances where that Law Practice does not adopt the business name, occupy the premises or acquire any goodwill, assets, client files or assume any liability of the sole practitioner's practice;
 - (b) a Law Practice which only receives, for no consideration, documents formerly held in the safe custody of another Law Practice.; or
 - (c) any First Law Practice which was last insured for professional indemnity liability by an entity other than Lexon.

Note 2: Meaning of Gross Fee Income – What you need to disclose

Gross Fee Income (GFI) is defined as:

- (a) including all professional fees, remuneration, commission, internal costs and disbursements charged to clients and income of any kind received by the law practice in connection with legal services;
- (b) including all income derived directly from any entity other than the law practice by any service, administrative or nominee company or trust in so far as the income arises from activities carried out in connection with the practice of a law practice;
- (c) excluding the reimbursement of third party disbursements;
- (d) excluding any applicable goods and services tax;
- (e) where the law practice is affiliated with any member services organisation and provides legal services to members either free of charge or at non-commercial rates, you should refer to clause 2.6 of Schedules 2 and 4 of the Queensland Law Society Indemnity Rule 2005 (Qld); and
- (f) where services are performed that could be performed by someone other than a solicitor (for example a tax agent, cost assessor, patent attorney etc), where the services have been performed subject to a client / solicitor retainer (or where the client would reasonably assume they were obtaining legal advice), the fees in relation to this work shall be included in the GFI. If the services performed are not subject to the above, the fees can be excluded from the GFI declared (noting that coverage under the policy will not be available).

Note 3: Staff Numbers & Stamp Duty

For the purpose of assessing the stamp duty payable by Lexon in each Australian jurisdiction, you are required to state the number of persons working for the Law Practice in each State or Territory.

All persons employed or engaged, in any capacity, and whether part time or full time, by the Law Practice and by service entities, companies and trusts associated with the Law Practice, including:

- (a) principals, legal practitioner directors;
- (b) consultants; and
- (c) both legal and non-legal staff;

Important information about this questionnaire (continued)

Note 3: Staff Numbers & Stamp Duty (continued)

Staff numbers are as at 1 February 2020 (or expected numbers at commencement if applicable). When completing the relevant sections, you should make reference to the below:

- (a) A principal includes every practising practitioner who is, or is held out to the public as a principal/legal practitioner director in a Law Practice.
- (b) Staff employed or engaged in the business of the Law Practice for less than twenty (20) hours per week shall be recorded as one half of a staff member (being 0.5 for number purposes).
- (c) A paralegal is a person who is not a qualified solicitor or barrister, and undertakes substantive legal work that requires knowledge of legal concepts and legal procedures.
- (d) Staff employed or engaged in the business of the Law Practice shall include staff employed by the Law Practice and by service entities, companies and trusts associated with any Law Practice.

Note 4: Areas of Practice

Residential Conveyancing – where the predominant feature of the matter concerns issues with the conveyance of *residential* property including:

- Drafting of a conveyancing agreement;
- Advice on relevant terms of a conveyancing agreement;
- Performance of a conveyancing agreement (such as giving notice, exercising an option, attending settlement etc).

Commercial Conveyancing - where the predominant feature of the matter concerns issues with the conveyance of *commercial* property including:

- Drafting of a conveyancing agreement;
- Advice on relevant terms of a conveyancing agreement;
- Performance of a conveyancing agreement (such as giving notice, exercising an option, attending settlement etc).

Other Property Related Transactions – including those where the predominant feature concerns:

- Leases (landlord and tenant);
- Town planning.

Mortgages and Securities - where the predominant feature of the matter concerns issues as to mortgages and securities including:

- Guarantees, company charges and loan agreements;
- Personal Property Securities Register (PPSR);
- Registration, transfer and realisation;
- Advice given about operation of mortgages and securities.

Other Commercial Law - where the predominant feature of the matter is of a commercial nature but does not fit into any other category. For example:

- Corporate (including incorporation, director's duties, mergers and acquisitions);
- Sale/Purchase of Business;
- Insolvency;
- Trusts.

Important information about this questionnaire (continued)

Note 4: Areas of Practice (continued)

Personal Injuries – where the predominant feature of the matter concerns personal injuries claims (whether for the claimant or defendant) including:

- Advice as to the viability of a cause of action;
- Assessment of liability and damages;
- Pre-proceedings requirements and conduct of proceedings;
- Motor vehicle, workplace, public liability, criminal compensation and others.

Litigation - where the predominant feature of the matter is litigation (not being Personal Injuries or another category) including:

- Conduct of proceedings;
- Advice as to causes of action and defences;
- Assessment of the liability, damages, and settlement;
- Adducing appropriate evidence.

Family Law - where the predominant feature of the matter involves issues arising from family law including:

- Binding Financial Agreements;
- Advice regarding property, support and custody issues, or de facto matters;
- Related litigation, such as in the family law courts.

Wills and Estates - where the predominant feature of the matter relates to wills, estates and succession planning including:

- Drafting and advising on testamentary documents;
- Drafting and advising on trust documents and structures, and EPOAs;
- Administration/distribution of a deceased estate or other trust;
- Related litigation such as Testator Family Maintenance.

Criminal Law - where the predominant feature of the matter involves criminal law issues including:

- Advice to make a certain plea;
- Investigating appropriate defences;
- Obtaining evidence.

Tax - where the predominant feature of the matter concerns tax and duty issues including:

- Structuring of transactions to maximise tax and stamp duty benefits;
- Application of or liability to pay GST in a given transaction.

Other – a matter that does not fit into any other category. For example, maritime law or where the predominant feature of the matter is the solicitor acting in a capacity as a board member or trustee or director, but the matter does not otherwise fall within another category.

1. Law Practice Details

Name of Law Practice

Firm number (leave blank if unknown)

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Date of commencement (or proposed commencement if a new practice) of Law Practice

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Does your Law Practice operate under any other names or entities? Yes No

If you answered Yes to this question, please list the other names or entities operated by your Law Practice.

Does your Law Practice have any Prior Practices (Refer Note 1)? Yes No

If you answered Yes to this question, please list the prior practices of your Law Practice (within the last 5 years) and the year of change below.

Law Practice name

Year of change

Law Practice name	Year of change

2. Contact Details

Street address of head office

Telephone

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Fax

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Law Practice email

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3. Staff Numbers & Stamp Duty

For the purpose of assessing the stamp duty payable by Lexon in each Australian jurisdiction, you are required to state the number of persons to be employed or engaged for the Law Practice in each State or Territory as at 1 February 2020 (or expected numbers at commencement if a new practice).

	Total principals (including legal practitioner directors)	Total employed solicitors (including consultants)	Total articulated clerks, supervised trainees and paralegals	Total non legal staff	Total
QLD					
NSW					
VIC					
SA					
WA					
TAS					
NT					
ACT					
Overseas					
Total					

Nb: there must be:

- at least 1 principal
- at least 1 person in QLD

4. Gross Fee Income (GFI) Estimate

Please provide details of your Law Practice's actual GFI (exclusive of GST – refer Note 2 for further details) - Tick as appropriate. If your Law Practice (including any other names or entities or Prior Law Practices noted above) commenced:

- prior to 1 January 2019, please include the actual GFI for the 12 months from 1 January 2019 to 31 December 2019;
- during the calendar year of 2019, please include actual GFI from the commencement date of such Law Practices until the end of 2019;
- after 31 December 2019, please enter your actual GFI as zero (your new starter estimate will be used).

If this is for a new Law Practice (with no prior Law Practice) the estimated GFI for the period from the proposed commencement date to 30 June 2021.

Actual GFI for relevant period

If your Law Practice is joining Lexon from another jurisdiction; the GFI above is to include the GFI for the 12 months from 1 January 2019 to 31 December 2019. In addition, the practice is to provide the expected GFI from commencement with Lexon until the following 30 June. Along with this questionnaire, the practice must provide a current claims history report from each interstate insurer (as applicable) of the Law Practice.

5. Areas of Practice

Please provide the percentage of your GFI declared in 4. above which is generated (or estimated if a new Law Practice) in each area of law set out below. The categories are defined in Note 4 above. The percentages should add up to 100%. Area of Practice information is being collected to assist in determining that the levy model as structured continues to be the most appropriate model for the Queensland profession.

Area of Practice	Percentage (of GFI in 4. above)
Residential Conveyancing	
Commercial Conveyancing	
Other Property Related Transactions	
Mortgages & Securities	
Other Commercial Law	
Personal Injuries	
Litigation	
Family Law	
Wills and Estates	
Criminal Law	
Tax	
Other	
TOTAL	(should sum to 100%)

If your GFI declared in 4 above is \$0, please insert 100% in the Area of Practice labelled "Other".

6. Enhanced Management Review (EMR) Program

WARNING: do not elect to participate if you have not read the terms or intend to conduct the necessary internal reviews (4 files every author – every 2 months) – repayment obligations exist.

Note that the 2020/21 EMR checklists contain 2 cyber questions concerning Lexon's cyber training and also out funds transfer advice from recent risk alerts and also seen in the conveyancing protocol. These can be seen in the new EMR Checklists in the pack.

Lexon's EMR program is available to any insured Law Practice which elects to participate. By agreeing to undertake periodic file reviews to a minimum standard, a participating Law Practice can help reduce the risk of a claim against them while also obtaining a 15% discount off the insurance base levy (minimum discount for participating is \$1,000 and maximum discount is \$40,000).

For full details, please access the EMR Pack 2020/21 online at www.lexoninsurance.com.au (Please note: Lexon website content is password protected and can only be accessed using the QLS credentials of practitioners of Lexon-insured law practices.)

To participate in the EMR program, please read the following declaration and sign where noted. If you do not wish to participate, simply leave this section blank.

I confirm that I am duly authorised to make this election on behalf of the Law Practice, and have read in full the EMR Pack 2020/21 including the terms and conditions noting a sample of Law Practices may be randomly selected to confirm they have carried out relevant reviews. By making this election I give an undertaking on behalf of both myself and of the Law Practice that the Law Practice will comply with the terms and conditions of the EMR program. Where the Law Practice is going to participate in the EMR program and I am not a principal, I confirm the terms and conditions of the EMR program have been discussed with, and agreed to, by a principal of the Law Practice.

In accordance with the terms and conditions contained in the EMR Pack, further information may be collected directly from Lexon from your practice during the year. This will be handled in accordance with the Lexon privacy policy which is available at www.lexoninsurance.com.au/Home/Privacy.

Signed:

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Print name:

Position: Principal / Member / Director

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7. Free Email Risk Alert Service

Lexon currently sends out 3 or 4 'risk reminder' emails per year dealing with general risk issues as well as emails dealing with emerging risks as they become apparent. This is a free service to participating Law Practices.

If you are not currently participating (or are unsure), and would like to, you can elect to do so by completing the details below.

Please note: If you are receiving the risk alert emails and wish to be removed from the distribution list, please email enquiries@lexoninsurance.com.au requesting removal. Leaving the address box blank will not remove you (or any other recipients in your practice) if you are already on the distribution list.

Please add the following email address(es) to Lexon's alert list (you may enter more than 1).

Risk alert email address(es):

8. Foreign Law Declaration

Legal Services which involve Foreign Law is a growing area of practice. Coverage is extended to Foreign Law claims in specific circumstances, as outlined in the Master Policy.

If your Law Practice wishes to seek confirmation from Lexon regarding coverage prior to undertaking Foreign Law work, you should download the Consent to Foreign Law Application from the Lexon website at www.lexoninsurance.com.au.

Please confirm whether you expect your Law Practice to undertake Foreign Law work before 30 June 2021.

Yes No

9. Top Up Information – Opt Out

Lexon, together with QLS Council, will make top up insurance available in 2019/20 to QLS members who would like the additional comfort of professional indemnity cover beyond the existing \$2 million per claim provided to all insured practitioners.

Pricing for this optional cover will be provided during the renewal process with practitioners having the choice of increasing the cover under their Lexon policy to either \$5 million or \$10 million per claim.

If you do **not** wish to receive any further information on top up, please email enquiries@lexoninsurance.com.au with a subject line of Top Up Insurance – Opt Out and including details of your practice. If you have previously opted out you do not need to notify us again.

10. Declaration

I confirm that I am duly authorised to complete this questionnaire on behalf of the Law Practice. To the best of my knowledge or belief the information provided in this questionnaire and any other documentation and information provided in connection with this questionnaire are true and complete in all material respects. The Queensland Law Society and/or Lexon Insurance is authorised to obtain from Travelers Insurance or Law Claims Levy Fund all claims or other information relating to the Law Practice.

I understand the information collected in this questionnaire and any additional information collected during the year in relation to insurance will be handled in accordance with the privacy policies as referred to in the Important Information about this Questionnaire section.

This Declaration must be signed by either a Principal, Member or Director of the Law Practice.

Signed:

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Print name:

Position: Principal / Member / Director

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Date:

Contact number:

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