



STATUTORY INSTRUMENTS.

S.I. No. 403 of 2015



THE SOLICITORS ACTS 1954 TO 2011 (PROFESSIONAL INDEMNITY
INSURANCE) (AMENDMENT) REGULATIONS 2015

THE SOLICITORS ACTS 1954 TO 2011 (PROFESSIONAL INDEMNITY INSURANCE) (AMENDMENT) REGULATIONS 2015

THE LAW SOCIETY OF IRELAND, in exercise of the powers conferred on them by section 26 of the Solicitors (Amendment) Act 1994 HEREBY MAKE the following Regulations:

1. Preliminary and general

- (a) These Regulations may be cited as The Solicitors Acts 1954 to 2011 (Professional Indemnity Insurance) (Amendment) Regulations 2015.
- (b) These Regulations and the Solicitors Acts 1954 to 2011 (Professional Indemnity Insurance) Regulations 2014 (the “2014 Regulations”) shall be construed together as one instrument. Terms used in these Regulations and defined in the 2014 Regulations shall, where the context so admits, have the respective meanings ascribed to them in those instruments.
- (c) These Regulations shall come into operation on the 1st day of December 2015.

2. Amendment of Regulation 3 of the 2014 Regulations

Regulation 3 (Maintenance of Insurance) of the 2014 Regulations is amended by the insertion of a new clause 3(b) as follows after clause 3(a) and re-lettering the subsequent clauses accordingly:

“(b) Each firm which submits a proposal form to a participating insurer(s) in respect of qualifying insurance (whether directly to the insurer or through a broker, agent or intermediary who is advising the firm on establishing and maintaining qualifying insurance) shall ensure that such proposal form does not contain any material misrepresentation or material non-disclosure (save for an innocent misrepresentation or innocent non-disclosure) on the part of the firm.”

3. Amendment of Clause 6 of Appendix 1 of the 2014 Regulations

Clause 6 (Exclusions) of Appendix 1 of the 2014 Regulations is amended by inserting a new clause 6.18 as follows:

“6.18 Financial Sanctions

The Insurance may exclude liability of the Insurer to indemnify the Insured against any Claim to the extent that payment of such Claim

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 25th September, 2015.

would cause the Insurer to breach any United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union or any other jurisdiction applicable to the Insurer, such that the Insurer would be exposed to a sanction, prohibition or restriction.”

4. Amendment of Clause 8 of Appendix 1 of the 2014 Regulations

Clause 8 (Dispute Resolution) of Appendix 1 of the 2014 Regulations is amended by the substitution of clause 8.3 of Appendix 1 of the 2014 Regulations for the following:

“8.3 Conduct of Claims

8.3.1 The Insurance must provide that, pending resolution of any coverage dispute and without prejudice to any issue in dispute, the Insurer shall if so directed by the Law Society conduct any Claim against the Insured, advance Defence Costs to the Insured and if appropriate compromise and/or pay any Claim against the Insured, such a direction by the Society to be known as a Direction.

8.3.2 The Society may make a Direction as referred to in clause 8.3.1 upon receipt of a request for such Direction from the Insured (to the exclusion of all other parties) if it is satisfied, in its absolute discretion, that:-

- (a) the Insured has taken all reasonable steps, to resolve the dispute with the other party, including but not limited to participating in Arbitration until a final decision had been made by the arbitrator as outlined in clause 8.1;
- (b) there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured’s favour;
- (c) the Insured has demonstrated to the satisfaction of the Society that, in connection with the claim made to the Insurer, the Insured has provided all information reasonably requested by the Insurer and answered all reasonable questions asked by the Insurer in relation to the subject matter of the dispute; and
- (d) it is fair and equitable in all the circumstances for such Direction to be given.

8.3.3 The Society may delegate its power to make a Direction in relation to a claim under clause 8.3.2 to an independent expert, to be appointed by the Society at its sole discretion and in accordance with any guidelines that may be adopted by the PII Committee from time to time in relation to the independence or expertise of any expert so appointed. For the avoidance of doubt, such independent expert must be satisfied that conditions (a) to (d) of clause 8.3.2 are met before making a Direction under that clause.

8.3.4 The Insurance may provide that the Insured shall be required to afford reasonable co-operation to the Insurer in relation to the handling of any Claim against the Insured, subject to the Insurer agreeing to meet the Insured's reasonable costs of such co-operation, and the Insurance may further provide that the Insurer shall be entitled to recover from the Insured by way of damages a sum equal to the Insurer's loss arising from or connected with the Insured's failure to co-operate as required by the Insurance. For the avoidance of doubt, the Insurance may not permit the Insurer to refuse to pay any claim, or to cancel, terminate or avoid the Insurance, due to the Insured's failure to co-operate as required by the Insurer."



SIGNED on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.
23 September 2015.

KEVIN O'HIGGINS,
President of the Law Society of Ireland.

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