

# Guidance Note 1

## Professional Indemnity Insurance

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### Purpose

This guidance note outlines the requirements for maintaining Professional Indemnity Insurance (PII) under the *Architectural Practice Act 2009*. It applies to all registered architects and architectural businesses in South Australia and explains minimum cover expectations, notification obligations, exemptions, and recent enforcement measures.

### Introduction

Maintaining current Professional Indemnity Insurance is a core condition of registration. It protects both the practitioner and the public by ensuring there is financial cover for civil liabilities that may arise from architectural services.

Sections 28 and 59 of the Architectural Practice Act 2009 make it an offence to provide architectural services without appropriate insurance cover. Architects must either:

- Hold their own PII policy; or
- Be named on their employer's policy.

Practising without valid insurance is considered unprofessional conduct and may lead to disciplinary proceedings.

### Minimum Insurance Requirements

The Board requires all practising architects to hold insurance cover that meets the following minimum standard:

- A limit of indemnity of at least \$1 million, for any one claim and in the aggregate; **and**
- Defence costs must be in addition to the limit of indemnity; **and**
- At least one automatic reinstatement of the limit of indemnity if the policy provides less than or equal to \$2 million in cover for any one period of insurance (excluding defence costs).

Each architect is responsible for determining whether their level of cover is adequate for the nature and scale of their architectural practice.

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### Policy Exclusions and Risks

Architects must carefully review policy exclusions. Insurance may not apply where:

- Contractual liabilities exceed what is imposed by common law
- The architect provides cost consultancy services; **or**
- There is a close relationship between the design and construction entities.

The APBSA is not an insurer. Architects requiring advice are encouraged to consult a qualified insurance broker who specialises in Professional Indemnity Insurance.

### Insurance Evidence and Declarations

Architects must provide current insurance details to the Board:

- On initial registration
- At each annual renewal
- Each time the PI policy is renewed; **and**
- Whenever requested by the Board (e.g. during a conduct investigation).

The Board must hold a current, unexpired Certificate of Currency at all times. If a policy is renewed during the registration period, a new Certificate must be provided promptly to replace the expired one.

Acceptable evidence includes:

- A current Certificate of Currency, outlining the level of cover and any exclusions; or
- For employees, a letter from the employer, naming the architect as an insured employee, with the employer's Certificate of Currency attached.

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### Enforcement and Consequences of Non-Compliance

To maintain public confidence and meet statutory obligations, the Board enforces strict compliance with PII requirements. Registration may be automatically suspended if evidence of current insurance is not provided and a fee will be applied for reinstatement on the Register.

Architects are responsible for ensuring that their insurance details are accurate and up to date at all times. Registration cannot remain valid without evidence of current PII.

### Exemptions

The Board may grant exemptions from the requirement to hold Professional Indemnity Insurance. While the *Architectural Practice Act 2009* does not specify particular grounds for exemption, it gives the Board discretion to determine when an exemption is appropriate.

As a general principle, exemptions will only be granted in exceptional circumstances. Architects who intend to provide architectural services in South Australia will rarely be eligible. The onus is on the applicant to demonstrate a compelling reason why an exemption should apply.

Exemptions may be considered for architects who are registered in South Australia but are not currently providing architectural services, including:

- Retired architects
- Architects practising exclusively outside South Australia (interstate or overseas)
- Non-Practising Architects working outside of building and construction industry
- Architects on extended leave from work, such as maternity, paternity or carers leave, or leave due to ill health

In such cases, applicants should seek advice from their insurance broker about whether 'run-off' insurance is required to cover liabilities arising from past work, advice or services provided prior to the exemption.

Exemptions will not be granted on the basis of cost alone.

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### Frequently Asked Questions

**Do I need PII if I only work on small projects?**

Yes. The scale of work does not reduce the potential liability. Even minor projects can give rise to large claims.

**Does my employer's cover apply to private work I do outside my job?**

No. You must obtain your own cover for any private or freelance architectural services.

**Do I need cover for pro bono or unpaid work?**

Yes. Duty of care applies regardless of whether you are paid. Architects remain liable and can be sued for negligence.

**Do I have to show clients my insurance?**

There is no legal obligation to disclose your policy. However, many architects choose to provide a Certificate of Currency to reassure clients of adequate cover.

### Need help?

If you are unsure about your insurance obligations or exemption eligibility, please contact the APBSA or speak to a qualified insurance broker.