

# EXEMPTION INFORMATION

## Rules for Exemption Eligibility

The following Law Society of Upper Canada (SOCIETY) LAWYERS are eligible for exemption from payment of the insurance premium levies:

- (a) Any LAWYER who during the course of the year(s) will not engage in the practice of law in Ontario.
- (b) Any LAWYER who during the course of the year(s) will engage in the practice of law in Ontario on an occasional basis only and **will be resident in a Canadian jurisdiction other than Ontario**, who demonstrates proof of coverage for the LAWYER'S practice of law in Ontario under the mandatory professional liability insurance program of another Canadian jurisdiction, such coverage to be reasonably comparable in coverage and limits to professional liability insurance that is required under the society's insurance plan (where "occasional basis" means, on an annual basis, not more than 10 matters).
- (c) Any LAWYER on a temporary leave of absence from the practice of law, provided that the temporary leave of absence is not more than 5 years if taken for reasons of family or illness, or not more than 2 years if taken for other reasons; this exemption shall not be available to a LAWYER who has taken alternative employment.
- (d) Any LAWYER who during the course of the year(s) will be employed by a single employer, and will engage in the practice of law only for and on behalf of the employer as: Counsel or solicitor to the Government of Canada or the Government of Ontario, a Crown Attorney, or a city solicitor, and will not engage in the practice of law in Ontario other than for and on behalf of the employer.

Any LAWYER employed as a law teacher during the course of the year(s), and who will not engage in the practice of law in Ontario other than teaching.

- (e) Any LAWYER who during the course of the year(s) will be employed by a single employer, and will engage in the practice of law only for and on behalf of the employer as counsel to a corporation other than a law corporation, and will not engage in the practice of law in Ontario other than for and on behalf of the employer. (N.B., this exemption is not available to LAWYERS under secondment from a LAW FIRM.)

- (f) Any LAWYER who during the course of the year(s),

- will be employed or volunteer in a clinic (within the meaning of the *Legal Aid Services Act, 1998*), a student legal aid services society, or an Aboriginal legal services corporation, that is funded by Legal Aid Ontario, but will not be directly employed by Legal Aid Ontario;
- will engage in the practice of law only through the clinic, student legal aid services society, or Aboriginal legal services corporation, to individuals in communities served by the clinic, student legal aid services society, or Aboriginal legal services corporation, and will not otherwise engage in the practice of law in Ontario; and
- demonstrates proof of coverage for such practice of law under a professional liability insurance policy issued by a licensed insurer in Canada, such coverage to be at least equivalent to that required under the society's insurance plan.

- (g) Any LAWYER who during the course of the year(s) will be resident in a reciprocating jurisdiction and demonstrates proof of coverage for the LAWYER'S practice of law in Ontario under the mandatory professional liability insurance program of the reciprocating jurisdiction, such coverage to be reasonably comparable in coverage and limits to professional liability insurance that is required under the society's insurance plan.

"reciprocating jurisdiction", subject to amendment to paragraph 9 under By-law 6 of the *Law Society Act, R.S.O. 1990, c.L.8.*, means a Canadian jurisdiction other than Ontario or Québec,

- (i) which is a signatory to:

- (a) prior to January 1, 2014, the National Mobility Agreement originally entered into in December 2002 by the SOCIETY, the Law Society of British Columbia, The Law Society of Alberta, the Law Society of Saskatchewan, The Law Society of Manitoba, The Barreau du Québec, the Nova Scotia Barristers' Society and the Law Society of Newfoundland;
- (b) beginning January 1, 2014, the National Mobility Agreement entered into in October 2013 by the SOCIETY, the Law Society of British Columbia, The Law Society of Alberta, the Law Society of Saskatchewan, The Law Society of Manitoba, The Barreau du Québec, the Chambre des Notaires du Québec, The Law Society of New Brunswick, the Nova Scotia Barristers' Society, the Law Society of Prince Edward Island and the Law Society of Newfoundland and Labrador; or
- (c) the Territorial Mobility Agreement originally entered into in November 2011 by the SOCIETY, the Law Society of Yukon, the Law Society of the Northwest Territories, the Law Society of Nunavut, the Law Society of British Columbia, The Law Society of Alberta, the Law Society of Saskatchewan, The Law Society of Manitoba, The Barreau du Québec, the Law Society of New Brunswick, the Nova Scotia Barristers' Society, the Law Society of Prince Edward Island and the Law Society of Newfoundland and Labrador;

- (ii) in which a LAWYER is authorized to engage in the practice of law; and

- (iii) which would exempt the LAWYER from its mandatory professional liability insurance program if the LAWYER were resident in Ontario and demonstrated proof of coverage for the LAWYER'S practice of law in the jurisdiction under the society's insurance plan which was reasonably comparable in coverage and limits to the professional liability insurance that would otherwise be required of the LAWYER by the jurisdiction.

Note: LAWYERS who are called as lawyers in Québec or acting as Special Canadian Legal Advisors members of the Chambre des Notaires du Québec, and who are called in more than one Canadian jurisdiction other than Québec, are eligible for exemption under this eligibility rule (g), provided the above criteria are met.

- (h) Any LAWYER who during the course of the year(s) will act in the capacity of an estate trustee, a trustee for *inter vivos* trust, or an attorney for property in respect of an estate, a trust or a property of a person other than a related person of the LAWYER of which the LAWYER was named as estate trustee, trustee or attorney while the LAWYER was engaged in the practice of law in Ontario, and

- (i) will not otherwise engage in the practice of law in Ontario, or

- (ii) who otherwise qualifies for exemption under:

- eligibility rule (d) employed LAWYER — employed in government or education,
- eligibility rule (e) employed LAWYER — employed as in-house corporate counsel, or
- eligibility rule (f) employed or volunteer LAWYER — legal aid clinic,

and will not engage in the practice of law in Ontario other than as provided for herein or under eligibility rule (d), (e) or (f) for which the LAWYER would otherwise qualify.

Note: LAWYERS acting in the capacity of estate trustee, trustee for *inter vivos* trust, or attorney for property as described in (h) above, but otherwise qualifying for exemption under eligibility rules (a), (d), (e) or (f) above, would select eligibility rule (h) if electing exemption under the program. LAWYERS named or acting only in respect of members of their own family, however, would not be included in this, so would select eligibility rule (a), (d), (e) or (f) as appropriate. For this purpose, members of the LAWYER'S own family, means "related persons" as defined under section 251(2) of the *Income Tax Act (Canada)*.

Any LAWYER who would otherwise be exempt from the payment of insurance premium levies, but will provide PROFESSIONAL SERVICES to or on behalf of a non-profit organization on a *pro bono* basis, and wishes to remain eligible for exemption from the payment of the insurance premiums and levies, should contact Lawyers' Professional Indemnity Company (LAWPRO).

## Insurance Coverage While Exempt

**There is no coverage for PROFESSIONAL SERVICES provided by the LAWYER during any period of exemption under the program.**

The only exceptions to this are:

- with respect to PRO BONO SERVICES provided through an approved *pro bono* PROFESSIONAL SERVICES program associated with Pro Bono Law Ontario;
- PROFESSIONAL SERVICES provided prior to January 1, 2017 in the course of employment for a DESIGNATED AGENCY(IES) employer;
- certain mentoring services provided pursuant to LawPRO-approved risk management protocols; and
- where application is received and additional coverage specifically purchased for certain services as estate trustee, trustee for *inter vivos* trust, or attorney for property.

**For more information, beyond that provided below, please contact LawPRO Customer Service.**

### Eligibility rules (a), (b), (d), (e), (f) and (h)

LAWYERS applying for exemption from the payment of liability insurance premium levies under eligibility rules (a), (b), (d), (e), (f) and (h) in 2018 are provided with reduced limits of liability of \$250,000 per CLAIM and in the AGGREGATE, subject to a \$5,000 DEDUCTIBLE per CLAIM (or as otherwise provided under General Condition C of the POLICY) and subject to any prior CLAIM(S) reported while exempt under these Rules for Exemption Eligibility, as further described below.

This coverage is provided at no charge to the LAWYER. The coverage limits and DEDUCTIBLE are applicable to CLAIM expenses, indemnity payments and/or costs of repairs together.

This coverage is in place from the date that the LAWYER first applies for exemption under any of these eligibility rules, and remains in place for that period or those periods of time during which the LAWYER is exempt, until exhausted by CLAIM payments or until the Law Society of Upper Canada no longer maintains the program insurance coverage through LawPRO. The aggregate POLICY limit is not reinstated annually, or otherwise.

LAWYERS who have been granted an exemption may apply to increase their Run-Off Coverage protection. This may be to apply to increase their limits of liability for Run-Off Coverage protection, and for those electing eligibility rule (h), may also be to expand the scope of their Run-Off Coverage protection and/or increased Run-Off Coverage protection to also apply to certain services as estate trustee, trustee for *inter vivos* trust, or attorney for property. For more information and an Application to Increase Run-Off Coverage, please contact the LawPRO Customer Service Department. Forms also are available on the LawPRO website at lawpro.ca.

### Eligibility rule (c)

LAWYERS who apply for exemption under eligibility rule (c) commencing at the outset of 2018 are provided with the standard practice POLICY coverage limits of \$1 million per CLAIM/\$2 million in the AGGREGATE and DEDUCTIBLE of \$5,000 per CLAIM, applicable to CLAIM expenses, indemnity payments, and/or costs of repairs together. In the case of LAWYERS who apply for exemption under rule (c) commencing during the course of 2018, the LAWYER'S current POLICY limit coverage continues in place. The coverage limits are applicable to CLAIM expenses, indemnity payments, and/or costs of repairs together.

### Eligibility rule (g)

LAWYERS applying for exemption from the payment of liability insurance premium levies under eligibility rule (g) in 2018 are provided with Run-Off Coverage, but only for those CLAIM(S) for which notice is subsequently given to LawPRO which arise out of the LAWYER'S earlier practice in Ontario, provided that the LAWYER practised in Ontario on a permanent basis at the time that the PROFESSIONAL SERVICES giving rise to the CLAIM(S) were performed, and provided that the LAWYER maintained the full practice coverage under the program in Ontario at the time.

This Run-Off Coverage is provided to the LAWYER at no charge, and is subject to limits of \$1 million per CLAIM/\$2 million in the AGGREGATE (reinstated annually), with a DEDUCTIBLE of \$5,000 per CLAIM. The coverage limits and DEDUCTIBLE are applicable to CLAIM expenses, indemnity payments and/or costs of repairs together.

CLAIM(S) relating to the LAWYER'S ongoing private practice in the reciprocating jurisdiction are to be covered in the ordinary course under the LAWYER'S practice POLICY under the reciprocating jurisdiction's mandatory insurance program. Where the LAWYER ceases to remain in private practice in a reciprocating jurisdiction in which the LAWYER is resident, or ceases to maintain the mandatory professional liability insurance practice coverage in that jurisdiction for ongoing private practice, exemption on the basis of eligibility rule (g) ceases to apply under the Ontario program.

**For more information on exemption eligibility and insurance coverage while exempt, please contact the LawPRO Customer Service Department at 416-598-5899 or 1-800-410-1013, fax 416-599-8341 or 1-800-286-7639 or via email to [service@lawpro.ca](mailto:service@lawpro.ca)**

For all of the above, the "practice of law" means the giving of legal advice respecting the laws of Ontario or Canada or providing any professional services of a barrister or solicitor for others.

For all of the above, "employer" includes a single corporation as well as affiliated, controlled and subsidiary companies of the corporation or other entity employing the LAWYER. "affiliated," "controlled," and "subsidiary" are as defined under the *Securities Act*.

For exemption category (g), "resident" has the same meaning given it for the purposes of the *Income Tax Act (Canada)*. If, however, a LAWYER is resident in Québec and is called in Ontario and one or more Canadian jurisdictions other than Québec, the LAWYER will be deemed resident in Ontario or one of the reciprocating jurisdictions in which the LAWYER is a member, as determined in accordance with nationally consistent criteria set by the SOCIETY and law societies for the reciprocating jurisdictions. In the event that nationally consistent criteria are not in place, the LAWYER will be deemed resident in Ontario or the reciprocating jurisdiction in which the LAWYER has been authorized to engage in the practice of law continuously for the longest period of time.

Note: Certain words have been capitalized to indicate that they have a specific meaning, as defined in the LawPRO POLICY available at lawpro.ca

# EXEMPTION FORM

## Application for Exemption (for New Applicants)

I, the LAWYER, hereby request an exemption from the payment of insurance premium levies under the primary LAWPRO Professional Liability Insurance program, in accordance with the Rules for Exemption Eligibility. This application for exemption shall commence on the date indicated below, and shall continue to apply to each future policy year, until I notify LAWPRO in advance in writing that my practice status is to change and that this application for exemption should then cease to apply.

I acknowledge that I am covered for **only** the following ongoing PROFESSIONAL SERVICES that I provide while exempt:

- PRO BONO SERVICES provided through an approved *pro bono* program associated with Pro Bono Ontario;
- certain mentoring services provided pursuant to LAWPRO-approved risk management protocols; and/or
- certain services as estate trustee, trustee for *inter vivos* trust, or attorney for property, where I have applied for and been granted coverage for these services.

### REASON FOR EXEMPTION REQUEST (see opposite for details)

- (a) not practising in Ontario .....
- (b) engaging in only occasional practice in Ontario, and resident in a Canadian jurisdiction other than Ontario (must provide proof of coverage) .....
- (c) on a temporary leave of absence .....
- (d) employed LAWYER – employed in government or education .....
- (e) employed LAWYER – employed as in-house corporate counsel .....
- (f) employed or volunteer LAWYER – legal aid clinic .....
- (g) mobility – resident and practising in reciprocating jurisdiction (must provide proof of coverage) .....
- (h) estate trustee, trustee for *inter vivos* trust, attorney for property .....

**DATE ON WHICH EXEMPTION IS TO TAKE EFFECT (mm/dd/yyyy)** \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_.  
(The effective date above should reflect the first full day on which you are claiming Exemption.)

Indicate here, if this application for exemption is based upon an appointment to the Bench.

**LAWYER'S NAME (please print)** \_\_\_\_\_

Law Society # \_\_\_\_\_

### PREFERRED MAILING ADDRESS:

No. \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal code \_\_\_\_\_

Telephone # \_\_\_\_\_ Facsimile # \_\_\_\_\_ Email \_\_\_\_\_

If the LAWYER is applying for exemption under reason (c), (d), (e), (f) or (g), please provide the name and address of your employer/LAW FIRM as of the effective date of this application for exemption:

Employer/LAW FIRM name \_\_\_\_\_

Employer/LAW FIRM address: As indicated above  or provide different address below.

No. \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal code \_\_\_\_\_

I, the LAWYER, acknowledge having read the **LAWPRO Personal Information Statement for Ontario LAWYERS** (which forms part of this Application for Exemption). I consent to the collection, use and disclosure of personal information in any optional program(s) for which I choose to apply or am to be named as an INSURED in, now or in future policy years, in accordance with that Statement.

### All LAWYERS applying for exemption must sign below:

LAWYER'S Signature \_\_\_\_\_ Date (mm/dd/yyyy) \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Return to:  
 LAWPRO  
 250 Yonge Street  
 Suite 3101, P. O. Box 3  
 Toronto, Ontario  
 M5B 2L7

Tel: 416-598-5899 or 1-800-410-1013  
 Fax: 416-599-8341 or 1-800-286-7639  
 Email: [service@lawpro.ca](mailto:service@lawpro.ca)  
[lawpro.ca](http://lawpro.ca)

**or**

File online at  
[lawpro.ca](http://lawpro.ca)  
 (My LAWPRO)