



New South Wales

Conveyancers Licensing Amendment (Professional Indemnity Insurance) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Conveyancers Licensing Act 1995* so as to enable the Minister, by order published in the Gazette, to approve policies of professional indemnity insurance for the purposes of that Act and to require conditions to be complied with in relation to those policies. At present, those policies must be approved by the Director-General of the Department of Fair Trading and comply with general requirements set out in that Act.

The Bill also validates licences granted before the commencement of the proposed Act that were held during any period in which the relevant policy of professional indemnity insurance was not an approved policy for the purposes of the Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Conveyancers Licensing Act 1995* set out in Schedule 1.

Schedule 1 Amendments

Section 7 (1) (e) of the *Conveyancers Licensing Act 1995* requires an applicant for a licence under the Act as a conveyancer to satisfy the Director-General of the Department of Fair Trading that the applicant will be covered by an approved policy of professional indemnity insurance during the term of the licence.

Schedule 1 [1] amends section 8 of the Act to provide that an *approved policy of professional indemnity insurance* for the purposes of the Act is a policy that is approved by the Minister by order published in the Gazette.

An order under the section may provide that a policy is an approved policy if it complies with any or all of the following:

- (a) it complies with the conditions set out in the order,
- (b) it is described in the order by reference to the insurer and the number of the policy, or identified by other specified particulars.

Provision is also made for certain ancillary matters in relation to an order (such as the date on which the order takes effect).

Schedule 1 [2] removes provisions that result in a licence automatically being of no effect during any period where an approved policy of insurance is not in force in respect of the licensee or the licensee has not paid a contribution or levy relating to the compensation fund under the *Property, Stock and Business Agents Act 1941*. In those circumstances, the Director-General of Fair Trading will be able to take action, if appropriate, to suspend or cancel the licence under section 13 of the Act. The amendment is intended to provide certainty as to when a licence is of no effect. This is also relevant to claims against the compensation fund which may only be made in respect of acts or omissions by licensees.

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Schedule 1 [3] and [4] enable regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [5] contains the validation described above in the Overview.

Schedule 1 [6] makes a consequential amendment.

First print



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Conveyancers Licensing Amendment (Professional Indemnity Insurance) Bill 2000

No. , 2000

A Bill for

An Act to amend the *Conveyancers Licensing Act 1995* to make further provision with respect to professional indemnity insurance for conveyancers; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Conveyancers Licensing Amendment (Professional Indemnity Insurance) Act 2000</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Conveyancers Licensing Act 1995 No 57	8
The <i>Conveyancers Licensing Act 1995</i> is amended as set out in Schedule 1.	9 10

Schedule 1 Amendments

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(Section 3)

2

[1] Section 8

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Omit the section. Insert instead:

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8 What constitutes approved policy of professional indemnity insurance

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(1) For the purposes of this Act, an *approved policy of professional indemnity insurance* means a policy, or a policy of a kind, that is approved by the Minister for the time being by order published in the Gazette.

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(2) An order under this section may provide that a policy is an approved policy if the policy complies with either or both of the following:

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(a) the policy complies with the conditions set out in the order,

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(b) the policy is described in the order by reference to the insurer and the number of the policy or is identified in the order by other specified particulars.

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(3) If an order under this section requires an approved policy to comply with conditions set out in the order a policy ceases to be an approved policy if it ceases to comply with those conditions.

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(4) An order under this section may:

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(a) apply generally or be limited in its application by reference to specified exceptions or factors, or

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(b) apply differently according to different factors of a specified kind.

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(5) An order under this section takes effect:

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(a) on the day it is published in the Gazette, or

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Schedule 1 Amendments

(b)	on a later date specified in the order.	1
(6)	An order under this section may contain provisions of a savings or transitional nature consequent on the making of the order.	2 3
(7)	If an order under this section takes effect during the term of a licence, any policy in force in respect of the licensee immediately before the order takes effect that is at that time an approved policy of professional indemnity insurance:	4 5 6 7
(a)	is taken to continue to be an approved policy of professional indemnity insurance in relation to the licensee until the expiry of the term of the licence, and	8 9 10
(b)	is subject to the same conditions to which it was subject immediately before the order took effect.	11 12
(8)	Subsection (7) is subject to any express provision to the contrary contained in the order.	13 14
[2]	Section 12 Duration of licences	15
	Omit section 12 (2) and (3).	16
[3]	Schedule 2 Savings, transitional and other provisions	17
	Omit “this Act.” from clause 1 (1). Insert instead:	18
	the following Acts:	19
	this Act	20
	<i>Conveyancers Licensing Amendment (Professional Indemnity Insurance) Act 2000</i>	21 22
[4]	Schedule 2, clause 1 (2)	23
	Omit “commencement of this Act”.	24
	Insert instead “date of assent to the Act concerned”.	25

[5] Schedule 2, Part 3	1
Insert after Part 2:	2
Part 3 Provisions consequent on enactment of Conveyancers Licensing Amendment (Professional Indemnity Insurance) Act 2000	3 4 5
22 Validation of licences granted before commencement of amending Act	6 7
(1) The fact that a policy of professional indemnity insurance in force in respect of a licensee or former licensee during the term or any part of the term of the licence or former licence was not an approved policy of professional indemnity insurance:	8 9 10 11
(a) is taken not to have invalidated the grant of the licence or former licence, and	12 13
(b) is taken not to have resulted in the licence or former licence being of no effect during that term or part of that term.	14 15 16
(2) This clause applies only to a term or part of a term occurring before the commencement of this clause.	17 18
[6] Dictionary	19
Omit the definition of <i>approved policy of professional indemnity insurance</i> .	20 21
Insert instead:	22
<i>approved policy of professional indemnity insurance</i> has the meaning given to it by section 8 (1).	23 24