

PROFESSIONAL INDEMNITY INSURANCE POLICY

PRESENTATION
BY



Accurate Risk Managers & Insurance Brokers Pvt. Ltd.



PROFESSIONAL ACTIVITY

1. The act is carried out by a Professional having prescribed educational qualifications and skill.
2. Generally it requires permission/ license from Independent Governing Body Requires Compliance of certain statutory provisions.



Who Are Professionals ??

1. Medical Practitioners
2. Architects/Designers
3. Engineers
4. Advocates/Lawyers
5. Financial Consultants
6. C.A. / C.S.
7. Directors
8. Service Providers Paramedics Medical Establishments
9. Research Body
10. Business House
11. Teaching Institute
12. Sports Persons
13. Counsels
14. Brokers



WE INDEMNIFY !

1. Damages/Compensation arising out of Third Party Property Damage or Bodily
2. Injury due to ERROR, OMMISION, NEGLIGENCE
3. Legally Tenable Damages involving CIVIL LIABILITY ONLY.
4. Defense Cost plus AWARDS



SCOPE OF THE POLICY

1. To protect a professional person against his legal liability to pay damages to persons who have sustained loss or damages arising out of his own professional negligence or that of his employees in the conduct of the profession.
2. The policy offers indemnity strictly on a legal liability but not moral liability/responsibility. The basis of this legal liability is liability in tort (negligence, error or omission) or a breach of contract by the professional to take reasonable care and skill and standard of competence in the performance of his duty to the client and consequently causing loss to him or other



Implied Conditions (for Legal Liability)

1. Existence of a Contractual Relationship for duty and care
2. Breach of duty to exercise care, competence and skill
3. Breach of duty or negligence has caused loss/damage to the client.



PROFESSIONAL INDEMNITY INSURANCE COVERS

DOCTORS AND MEDICAL PRACTITIONERS MEDICAL ESTABLISHMENTS

- CONSULTING ENGINEERS, ARCHITECTS and INTERIOR DECORATORS
- CHARTERED ACCOUNTANTS, FINANCIAL ACCOUNTANTS AND MANAGEMENT CONSULTANTS
- LAWYERS, ADVOCATES, SOLICITORS & COUNSELS
- OTHER PROFESSIONALS LIKE IT PROFESSIONALS, BROKERS, AGENTS ETC



Basic Elements Of Risk:

This policy may define the risks to be covered or the subject matter of insurance using any of the following elements:

- i) In relation to the Professional activity or service.
- ii) In relation to the causes of action which may arise against the professional by the third party. Or,
- iii) In relation to a claim made by the third party against the professional. Generally a professional indemnity policy defines the risks elements using each of these elements in various ways, forms and clauses. The policy cover also makes the use of the words like “Loss”, “Liability” or “Claim” to define the risk elements.



Basic Elements Of Risk: (Continued)

Professional Activity/ Service: This basic element of risks is defined or dealt with number of ways like:

- i) In relation to professional duty out of which breach arises
- ii) Activity of a named profession.
- iii) Activity in the conduct of business/ profession
- iv) Advice in the professional capacity
- v) Drafting of documents in the professional capacity.
- vi) Agency or representation in the professional capacity (auctioneers /estate agents) and so on.



Basic Elements Of Risk: (Continued)

Causes of Action: The insurer's promise to indemnify is limited to the defined causes of action by the third party against the insured. The policy provides that the cause of action must be for the breach of duty of the professional due to his negligent act, error or omission. So the core of the Standard Professional Indemnity Policy is a cover against the legal liability / claim made against the insured for his negligence or errors / omission in professional activity/ service



Basic Elements Of Risk: (Continued)

Claim Made:

This policy provides indemnity not on Occurrence basis, but Claim made basis. The insurer will indemnify the insured for any legal liability / claim made by the third party (Clients/others) against the insured within the duration of the policy. So there is no matter as to the time within which notice must be given. A Claim made policy involves the following three elements:

- i) Third Party's claim against the Insured must be within the duration of the policy.
- ii) The Insured event is a legal claim made by the third party against the insured, but not the mere event affecting the T.P
- iii) The Third Party's claim against the insured is under adjudication in the Indian Courts



Policy Form: & Basic Clauses

The structure of all Professional Indemnity Policies is almost identical with and in the lines of Public Liability Policies (Industrial and Non Industrial Risks) and Product Liability Policies in respect of the following major clauses:

1. Operative Clause
2. Indemnity Clause
3. Limit Of Indemnity Clause
4. Defense Costs
5. Notification Extension Clause
6. Claim Series Clause



Indemnity Clause:

- i) This clause provides that indemnity applies only to claims arising out of losses or damages during the period of insurance first made in writing against the insured during the policy period.
- ii) The insured is indemnified in accordance with the operative clause for the breach of professional duty by reason of any negligent act, error or omission committed during the period of insurance by
 - The insured as stated in the policy
 - The predecessors in the business of the firm
 - An employee of the insured or the predecessors.
- i) No liability for any act committed prior to the retroactive date stated in the policy schedule.



Limit of Indemnity Clause (Clause no 3)

This clause provides that irrespective of the number of persons mentioned as insured in the schedule the total liability of the company for damages inclusive of defense costs in respect of all claims made against the insured shall not exceed the limit of indemnity for the policy period stated in the schedule.



Claim Series Clause (Clause No.6)

1. This clause provides that where a series of losses and/or bodily injuries and/or deaths are attributable directly to the same cause or error or omission in the discharge of the professional service or act all such claims are added together and treated as one claim and such claim shall be deemed to have been made at the point of time when the first of the claims was made in writing.
2. No coverage for claims from the same cause, which are made later than 3 years after the first claim of the series.



Law of Tort & Crime

1. Tort means a civil wrong arising out of duty from Common law. The Common Law applied by the Indian Courts is largely based on English Common Law. It brings civil cause of action & compensation for damages.
2. Common law imposes duty on everybody to regulate his action and behavior as not to cause injury to other persons or damage to their property
3. In Tort an action is brought by the injured who is to be compensated by the wrong doer, as awarded by a Civil Court
4. Crime is a breach of public rights with the entire society
5. Crime is subject to prosecution by the State and punishable by fine and/or imprisonment



EXCLUSIONS (Professional Indemnity Insurance)

- Contractual liability
- Liability for any act in violation of any law.
- Services rendered under influence of intoxicants/narcotics
- Pure financial loss i.e. loss of market or goodwill
- Personal Injuries like Libel, Slander etc.
- Fines, penalties etc.
- War and nuclear perils
- Employer's Liability
- Injury/damage occurred before retroactive date
- Deliberate disregard of insured's staff to duty and take care
- Third Party Public Liability



CONDITIONS

1. Indemnity up to AOA limit for every claim, & Claim amount and defense cost to be covered by the aforesaid limit.
2. The policy and the schedule shall be read together for indemnity & terms, conditions, exclusions to be interpreted as per Indian Law.
3. The insured needs to keep accurate record of annual turnover and at renewals to declare details of the same and scope for inspection
4. To follow Principle of contribution in case of two/more policies
5. Cancellation of the policy with 30 days notice and refund of prem.
6. Amount every claim paid /payable reduces indemnity limit
7. If the company disclaim liability of a claim and if such claim is not subject matter of suit within 12months the claim deemed abandoned



LIABILITY POLICY TERMS

Claims Made Basis:

The policy is issued on Claims Made Basis, which has a retroactive date, and it covers losses occurring after that date and reported during the policy period, provided there has been uninterrupted insurance cover. This type is mostly used worldwide and is different from the Occurrence Basis where the claims that occur during the policy get covered irrespective of when they get reported. The Occurrence Basis form should not be issued, and care should be taken that all Liability policies are issued on Claims Made Basis Only.



Retroactive Date

This is the date when the policy is taken first time and this date remains same if the policy is renewed without any break. It gives the continuity benefit and if there is any change in the terms of coverage, limits or jurisdiction then the retroactive date for such changes needs to be changed. The implication of this date is that any loss after this date can be considered provided it satisfies the other requirements of claims reporting as well as scope of cover and there has been a continuous insurance without any break.



Any One Accident Limit

This is the limit of indemnity chosen by the proposer and denotes the maximum liability in case of anyone accident. The issues such as the complete batch of products or series of accidents can be understood in relation to the Proximate Cause and all such claims for purpose of Insurance are treated as Single Event.



Any One Year Limit

This is the limit on maximum amount payable in the entire policy period on basis of the ratio chosen by the proposer. The proposer can choose ratio 1: 1, 1:2, 1:3 and 1:4

Aggregate Limit: It is necessary to mention the ANY ONE YEAR LIMIT as also the aggregate limit as it clearly states that in no event our liability would exceed the AOY Limit.



Right To Defend

This is opposed to the Duty to Defend. By right to defend it is meant that the Insurance Company if desires may take up the defense and it is not mandatory.

Defense Costs: The legal costs directly related to the claim get covered subject to the overall limit and it should be understood that these expenses are not over and above the Indemnity Limit under the policy



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WISH YOU ALL THE BEST

THANK YOU