

## Conveyancers Act 2006

### CONVEYANCERS PROFESSIONAL INDEMNITY INSURANCE ORDER

I, Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, make this order under section 41(3) of the Act.

#### Part A – Introductory

##### 1 Purpose and effect of this order

1.1 This order specifies the required insurance for licensees under the Act and the conditions and requirements that the insurance is to satisfy.

1.2 This order applies to all licensees under the Act.

##### 2 Commencement

This order takes effect on 1 July 2020.

##### 3 Revocation

All previous orders made under section 41(3) of the Act are revoked.

##### 4 Definitions

In this order:

**the Act** means the **Conveyancers Act 2006**

**Insurer** means an insurer or insurers appointed by the Australian Institute of Conveyancers (Victorian Division) Inc (ABN 88 094 065 126) from time to time

**master policy** means the master contract of professional indemnity insurance of the Insurer as amended from time to time.

#### Part B – Conveyancers Professional Indemnity Insurance

##### 5 Required professional indemnity insurance

Every licensee under the Act must be covered by the master policy.

## **6 Conditions and requirements the insurance must satisfy**

The minimum conditions and requirements of the professional indemnity insurance cover included in the master policy are:

- i) the Insurer holds an A- financial strength rating or better.
- ii) the limit of indemnity is at least \$2 million per claim, unlimited in the aggregate for each master policy year and is exclusive of defence costs and expenses.
- iii) the excess applicable under the master policy will be exclusive of defence costs and expenses.
- iv) an excess per claim of at least \$2,500 where the conveyancer is acting for a single party or at least \$5,000 where the conveyancer is acting for both parties, but in either case no greater than \$7,500.
- v) civil liability cover for the licensee and each person who is an employee of the conveyancing business.
- vi) Run Off cover for a period of not less than 7 years for a licensee who ceases being a licensee, however the limit of indemnity will be \$2 million in the aggregate for the period of Run Off.

Dated: 28/06/2020

A handwritten signature in blue ink, appearing to read 'Melissa Horne', is positioned above the printed name and title.

**Hon Melissa Horne MP**

Minister for Consumer Affairs, Gaming and Liquor Regulation



## Hon Melissa Horne MP

Minister for Consumer Affairs, Gaming and Liquor Regulation  
Minister for Ports and Freight  
Minister for Fishing and Boating

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### Subordinate Legislation Act 1994

#### CONSULTATION CERTIFICATE

(Section 12C)

#### CONVEYANCERS PROFESSIONAL INDEMNITY INSURANCE ORDER

I, Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister responsible for administering the **Conveyancers Act 2006**, certify that there has been consultation in accordance with the guidelines made under the **Subordinate Legislation Act 1994** with:

- (a) Every other Minister whose area of responsibility may be affected by the proposed Conveyancers Professional Indemnity Insurance Order and there is no overlap nor conflict with any other existing or proposed legislative instrument, other legislation or stated government policy; and
- (b) The Australian Institute of Conveyancers (Victorian Division) Inc (AIC), which represents licensed conveyancers, being the sector of the public on which a significant economic or social burden may be imposed by the proposed Conveyancers Professional Indemnity Insurance Order, so that the need for, and the scope of, the proposed Conveyancers Professional Indemnity Insurance Order has been considered; and
- (c) Austbrokers Countrywide, which is the broker jointly responsible with the AIC for administering the professional indemnity master insurance policy for conveyancers, has also been consulted.

Dated: 28/06/2020

**Hon Melissa Horne MP**

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### Subordinate Legislation Act 1994

#### EXEMPTION CERTIFICATE

(Section 12F)

#### CONVEYANCERS PROFESSIONAL INDEMNITY INSURANCE ORDER

I, Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister responsible for administering the **Conveyancers Act 2006**, certify under section 12F(1)(a) of the **Subordinate Legislation Act 1994** that in my opinion, the Conveyancers Professional Indemnity Insurance Order (the Order) does not impose a significant economic or social burden on a sector of the public.

The reasons for forming this opinion are that the proposed Legislative Instrument replaces the existing minimum requirements for professional indemnity insurance for conveyancers, and the changes do not impose any burden on licensed conveyancers.

The **Conveyancers Act 2006** prohibits conveyancers from carrying out conveyancing work in Victoria unless they have professional indemnity insurance. Section 41(3) of that Act empowers the Minister to specify requirements for this professional indemnity insurance.

An existing order specifies the requirements for a master insurance policy for conveyancers, including the maximum excess per claim. The existing order also specifies two insurers that are permitted to provide professional indemnity insurance.

The Order also allows the professional body for conveyancers, the Australian Institute of Conveyancers (Victorian Division) Inc (AIC), to appoint insurers from time to time to provide professional indemnity insurance, instead of specifying insurers in the order.

This gives the AIC flexibility to appoint new insurers when required. It also expands the potential choice of insurers as the AIC will not be limited to specific insurers named in a Ministerial order. This change from the existing order also reflects the exit from the market of one of the current named insurers, Allianz Australia Insurance Limited (Allianz).

The Order also increases the maximum excess per claim for a conveyancer from \$2,500 when acting for a single party, or \$5,000 when acting for both parties to a transaction, to \$7,500 in either case. This change will allow conveyancers to choose a higher excess in return for a lower premium to reduce their insurance costs. In practice, a choice of excess will be provided

through appropriate competitive commercial arrangements with an insurer or insurers appointed by AIC. I am advised that the premium discount for choosing a higher excess will be around \$500 per year.

The Order takes effect from 1 July 2020 to align with the renewal of conveyancers' professional indemnity insurance and Allianz's withdrawal from the market.

Accordingly, a Regulatory Impact Statement is not required for this Legislative Instrument.

Dated: 28/06/2020

A handwritten signature in blue ink, appearing to read 'Melissa Horne', is positioned above the printed name.

**Hon Melissa Horne MP**

Minister for Consumer Affairs, Gaming and Liquor Regulation

**Subordinate Legislation Act 1994**

**HUMAN RIGHTS CERTIFICATE**

(Section 12D)

**CONVEYANCERS PROFESSIONAL INDEMNITY INSURANCE ORDER**

I, Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister responsible for administering the **Conveyancers Act 2006**, certify that, in my opinion the proposed Conveyancers Professional Indemnity Insurance Order does not limit any human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.

Dated: 28/06/2020

A handwritten signature in blue ink, appearing to read 'Melissa Horne', is positioned above the printed name.

**Hon Melissa Horne MP**

Minister for Consumer Affairs, Gaming and Liquor Regulation