



Base premium set at \$2,500  
per lawyer for 2004

# 2004 insurance program

*Lawyers will be paying a base premium of \$2,500 per lawyer for their professional liability insurance coverage in 2004 – consistent with 2003 premium levels despite difficult investment and commercial insurance markets.*

Since assuming responsibility for the administration of the insurance program in 1995, LAWPRO has consistently reduced rates from a high of \$5,600 in 1995 to the current \$2,500 base premium.

Many lawyers will pay lower premiums still, depending on variables such as options selected, years in practice and practice areas. For example, part-time practitioners, those who restrict their practice to criminal and/or immigration law, and lawyers newly called to the bar could pay a premium of \$1,500 or less in 2004.

Premiums for other insurance coverages, transaction levies and discounts will remain the same as they were in 2003.

The decision to maintain the premium at the \$2,500 mark is based on a number of factors: Claims numbers and costs are expected to increase slightly in 2004, the result of more complex

claims files and higher defence costs; premium income from transaction levies is lower, reflecting an increase in the use of title insurance in real estate transactions; and because interest rates are at historic lows, investment returns will not be available to significantly subsidize premiums in 2004.

By holding the line on premiums for 2004, LAWPRO has been able to buck a trend in the insurance industry. Double and even triple digit premium increases for liability coverage have been reported for some commercial programs. As well, the professional liability marketplace continues to experience reduced capacity, the result of significant losses post 9/11 that prompted some insurers to abandon product lines, merge or consolidate or leave the markets altogether.

# Policy coverage changes for 2004

A number of changes have been made to the policy for 2004, in keeping with the need to ensure the program is risk-rated and provides appropriate coverage for lawyers' legal services.

## **Investment advice/services excluded**

Lawyers who provide investment advice or services may find that claims arising out of these services are excluded from coverage under the LAWPRO policy, unless the advice or services were a direct consequence of providing legal services.

## **Business ventures, investments excluded**

Similarly, lawyers who become involved in business ventures or investments outside their legal practice will find claims arising out of these services are excluded from coverage; specifically, the 2004 insurance policy has been modified to exclude from coverage claims relating to or arising out of any business ventures or investments which do not directly relate to the lawyer's practice of law.

## **Criteria for applying claims history levy surcharge modified**

In the past, this surcharge has applied only to lawyers who have had one or more claims in which an indemnity payment was made as a result of a judgment or by way of repair or settlement of a claim. Starting in 2004, the claims history levy surcharge will apply to claims in which the whole of the \$1 million per claim policy limit has been exhausted by costs and expenses incurred to investigate and defend the claim, even though no indemnity payment or repair has been made under the policy. The surcharge would be removed if the lawyer subsequently shows that no judgment, settlement or repair has yet been made outside of the policy limits.

As well, in the past this surcharge applied to lawyers who had a claim paid in the last five years; starting in 2004, the surcharge will apply if any claims were paid in the last five-year period during which the lawyer maintained practice coverage under the program. This change addresses situations in which lawyers with a claim or claims went on exemption for a period of time and then returned to practice after the five-year window had elapsed, negating the need to pay this surcharge.

## **Civil litigation criteria updated**

As well, the \$50 per transaction civil litigation transaction levy surcharge has been updated so that the transaction levy surcharge does not apply to divorces and adoption proceedings which are not opposed on any issue.



# Filing 2004 insurance application or exemption forms

## Application filing deadlines

### NOVEMBER 3: E-FILE DEADLINE

File your 2004 insurance application by November 3, 2003, and you'll receive a \$50 premium discount on your next year's insurance premium. Last year, close to 75 per cent of lawyers opted to take advantage of this discount and completed their applications via the File Online option on our Web site – [www.lawpro.ca](http://www.lawpro.ca)

### NOVEMBER 7: APPLICATION FILING DEADLINE

To avoid paying a late filing surcharge of 30 per cent of the base premium, applications must be filed with LAWPRO by November 7, 2003. Applications can be filed in one of three ways: electronically (e-file), by fax or mail.

## Who must file an application?

- Any lawyer insured under the LAWPRO program in 2003 who intends to continue in private practice in 2004.
- Any lawyer who was exempt under the program in 2003 but intends to return to private practice in 2004.
- Any in-house counsel, government or education lawyer, or legal aid clinic lawyer who, in the course of employment or otherwise, provides legal services to third parties.
- Any lawyer who, although retired from active private practice, occasionally provides legal services.
- Any Law Society member who, although not resident in Ontario, engages in more than "occasional practice" in Ontario, as defined under the Rules for Exemption Eligibility.

## Fewer lawyers receive paper application packages for 2004

To streamline application processing and reduce both paper and administration costs, LAWPRO delivered most of its 2004 insurance materials electronically this fall: Insurance applications, invoices and other relevant information were delivered primarily via our Web site rather than in printed form through the mail.

In early October, the more than 14,000 lawyers who e-filed last year were notified electronically that the LAWPRO Web site is open for e-filing 2004 insurance applications. Printed paper application packages were mailed only to lawyers who did not e-file last year, and to those for whom LAWPRO did not have a valid and current e-mail address on file.

The Web-based process not only streamlines lawyers' interactions with LAWPRO, but also saves the company more than \$40,000 in printing and mailing costs (previously, we mailed applications and program guides to each insured lawyer and her/his law firm under the Law Society insurance program).

**Lawyers who e-filed on an individual lawyer basis in 2002 for the 2003 insurance program:** You should have received e-mail notification that your pre-populated 2004 insurance application was available online in early October 2003. The application is available in two formats:

- as a PDF document that is to be used for reference purposes only, and replaces the paper version that was mailed to you in the past. This document is a snapshot of your coverage and options as of October 1, 2003, and cannot be altered. It will not reflect any updates or changes you make to the live, online form.
- as a Web-based electronic application form pre-populated with information from our database on you and your current coverage and payment options. You can review, update and submit the application online in only minutes. Filing online by November 3, 2003, will qualify you for a \$50 per lawyer online filing discount that will be applied to your 2004 insurance premium.

**Law firms of five or more lawyers:** The managing partner, firm administrator and/or insurance contact identified on your most recent online filing should have received e-mail notification that your firm's pre-populated 2004 insurance materials are available online. The online firm application/summary will be pre-populated with information from our database on all lawyers in your firm.

The online firm form has been simplified to make it easy for law firms to add the names and other relevant information for new lawyers in their firm. Rather than complete an online or paper form for each new lawyer, the insurance contact will provide

only some basic information such as the new firm member's Law Society number, name, status and specific practice options that apply (e.g. part-time practice).

Filing online will qualify the firm for a \$50 per lawyer e-file discount that will be applied to the firm's 2004 insurance premium, if the filing is received by November 3, 2003.

# E-file in minutes by following these simple steps

## WHAT YOU'LL NEED

Before you e-file, make sure you have the following at hand:

- your Law Society (LSUC) member number; and
- your unique, confidential password.

## ABOUT YOUR PASSWORD

- If you have completed any online LAWPRO filings in the past, the password you used will still be valid.
- If you have forgotten your password, you may be able to reconfirm it using the "Forgot your password" function on the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca)
- If you do not have a password you can set up a password online or complete our online password request form (a Customer Service representative will then contact you to establish your password), or you can call 416-598-5899 or 1-800-410-1013 during regular business hours and request a password. To minimize your wait time, we suggest you call and arrange your online filing password as soon as possible. **DO NOT WAIT UNTIL NOVEMBER 3<sup>rd</sup>.**

## E-FILE IN 4 EASY STEPS

1. Go to the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca) and click on **File Online**.
2. You will be prompted to enter your Law Society member number and your unique, confidential password.
3. Select **2004 Professional Liability Insurance Application (renewals)** from the list of options. Your application form will appear, pre-populated with your information pulled from our database.
4. Follow the on-screen instructions for completing your application – in minutes! All of the information on the 2004 insurance program and options is available online.

## RECEIVE YOUR \$50 PREMIUM DISCOUNT

- Complete the online filing by November 3, 2003, and you will receive a \$50 per lawyer e-file discount on your 2004 insurance premium.

**Lawyers who completed paper/fax applications in 2002 for the 2003 insurance program:** You can complete your application online, via the LAWPRO Web site and qualify for the \$50 online filing discount. As well, you should have received a package containing your pre-populated paper application and the printed instruction booklet. However, filing by mail or fax will not entitle you to the \$50 discount available to those who file electronically by November 3, 2003.

**Invoice and policy packages for all lawyers:** If you or your law firm file the 2004 application electronically, you will automatically be eligible to receive your 2004 insurance premium invoice online. You will be informed via e-mail later this fall that your electronic invoice is available, in a secure, password-protected portion of our Web site. Lawyers and law firms have the option of indicating, on their application, a preference for a printed invoice.

As in the past two years, only those lawyers who do not e-file, and/or for whom we do not have an e-mail address, will receive printed packages of the 2004 policy and the booklet containing forms for transaction levy filings. Printed copies also are available on request.

## Updated Personal Information Statement addresses privacy legislation

Included in the 2004 insurance program materials is an updated LAWPRO Personal Information Statement for Ontario Lawyers which outlines how we collect, use and disclose information related to our optional programs. The Warranty & Signature section of all insurance forms includes a reference to this Personal Information Statement, and to the fact that the consent provided by the lawyer (or law firm on behalf of all lawyers in the firm) is ongoing, thus eliminating the need to revisit this issue annually.

The full text of the Statement is available on our Web site via a link in the Warranty & Signature section of your online application.

Our LAWPRO Privacy Code is available on our Web site at [www.lawpro.ca/privacy](http://www.lawpro.ca/privacy) or in hard copy from our Customer Service Department at 416-598-5899 or 1-800-410-1013, e-mail [service@lawpro.ca](mailto:service@lawpro.ca). The Code describes how LAWPRO will exercise its commitment to the privacy of information related to our optional insurance programs.

## Mobility protocol prompts exemption changes

The introduction this past July of the National Mobility Agreement, which paves the way for increased inter-jurisdictional mobility of lawyers, has prompted a change to the criteria

under which lawyers can exempt themselves from paying the insurance premium.

### MOBILITY EXEMPTION ADDED

Law Society of Upper Canada members who are also called in other reciprocating jurisdictions may apply for exemption in those reciprocating jurisdictions in which they are called and not resident. Lawyers called in Ontario, but who are also called and resident in another reciprocating jurisdiction can apply for exemption "g" under the Ontario program.

To qualify, you must have coverage under the reciprocating jurisdiction's law society program that is comparable in terms of both coverage and limits to the insurance coverage required by Law Society members.

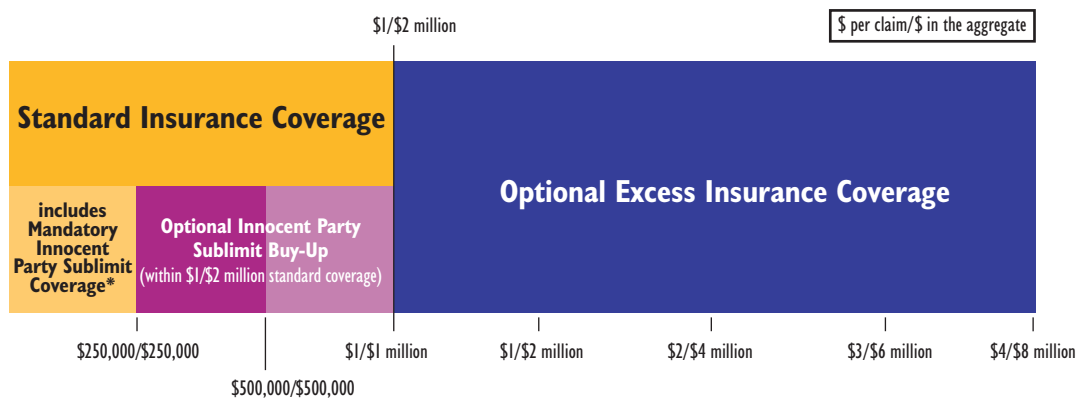
If a claim subsequently arises for those who qualify for exemption "g," the policy of the reciprocating jurisdiction in which the lawyer is resident and paying the premium will generally apply to the claim. However, if their practice was previously located in another reciprocating jurisdiction, such as Ontario, and a claim arises out of earlier legal services there, the insurance policy of that earlier reciprocating jurisdiction will apply.

Once a lawyer stops practising in a reciprocating jurisdiction, or ceases to maintain insurance coverage in that jurisdiction for ongoing private practice, he or she is no longer eligible for the "g" exemption under the Ontario program.



# 2004 insurance coverage for lawyers in private practice

Sole practitioners and lawyers in association or partnership



## Standard insurance coverage

### The base program

**Eligibility:** Required for all lawyers providing services in private practice.\*\*

**Coverage limit:** \$1 million per claim/\$2 million in the aggregate (i.e. for all claims reported in 2003), applicable to claim expenses, indemnity payments and costs of repairs together.

**Standard deductible:** \$5,000 per claim, applicable to claim expenses, indemnity payments and costs of repairs together.

**Base premium:** \$2,500 per insured lawyer.

### Mandatory Innocent Party Sublimit Coverage\*\*\*

**Eligibility:** Required for all lawyers practising in association (including MDP Association) or partnership (including general and MDP and LLP partnerships), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

**Coverage sublimits:** \$250,000 per claim/in the aggregate, applicable to claim expenses, indemnity payments and costs of repairs together.

**Premium:** \$250 per lawyer.

## Optional Insurance Coverages

### Innocent Party Sublimit Buy-Up\*\*\*\*

**Eligibility:** Optional for all lawyers practising in association or partnership (including MDPs and LLPs), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

- Coverage sublimits & premiums:* Innocent Party Sublimit Coverage can be increased as follows:
- to \$500,000 per claim/aggregate for an additional \$150 per lawyer (\$400 total Innocent Party premium); or
  - to \$1 million per claim/aggregate for an additional \$249 per lawyer (\$499 total Innocent Party premium).

### **Optional Innocent Party Sublimit Coverage\*\*\*\***

- Eligibility:* Optional for sole practitioners and lawyers practising alone in a law corporation. Provides protection for ongoing liability that sole practitioners can have in situations such as the following:
- if you've acted as back-up counsel or had others act as back-up counsel for you;
  - if you've taken a temporary leave of absence from your practice and have delegated your work to others;
  - if you've practised as a partner or associate in the past;
  - if your practice includes or once included employees;
  - if you've practised in any situation in which you could be seen as lending your name to others;
  - as an assurance to others if involved in electronic registration and escrow closings.

- Coverage sublimits:*
- LAWPRO offers Optional Innocent Party sublimits of:
  - \$250,00 per claim/aggregate;
  - \$500,000 per claim/aggregate;
  - \$1 million per claim/aggregate.

- Premiums:* Underwritten on an individual basis, based on a risk assessment of information provided in the Innocent Party Sublimit application.

## **Excess Insurance Coverage**

- Eligibility:* Available to all lawyers in private practice, and to all lawyers with Run-Off Insurance Coverage.

- Coverage limits:* The following Excess limits\*\*\*\* are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a FIRM basis (i.e. for all firm lawyers for services on behalf of the firm):
- \$1 million per claim/\$2 million in the aggregate;
  - \$2 million per claim/\$4 million in the aggregate;
  - \$3 million per claim/\$6 million in the aggregate;
  - \$4 million per claim/\$8 million in the aggregate.

- Premiums:* Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

### **FOR INFORMATION**

For information on any of these insurance options, or for application forms, please contact the LAWPRO Customer Service Department at 416-598-5899 or 1-800-410-1013 or via e-mail: [service@lawpro.ca](mailto:service@lawpro.ca).

You can also find detailed information on the insurance program and your insurance options on the LAWPRO Web site – [www.lawpro.ca](http://www.lawpro.ca).

\* Optional for sole practitioners.

\*\* Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

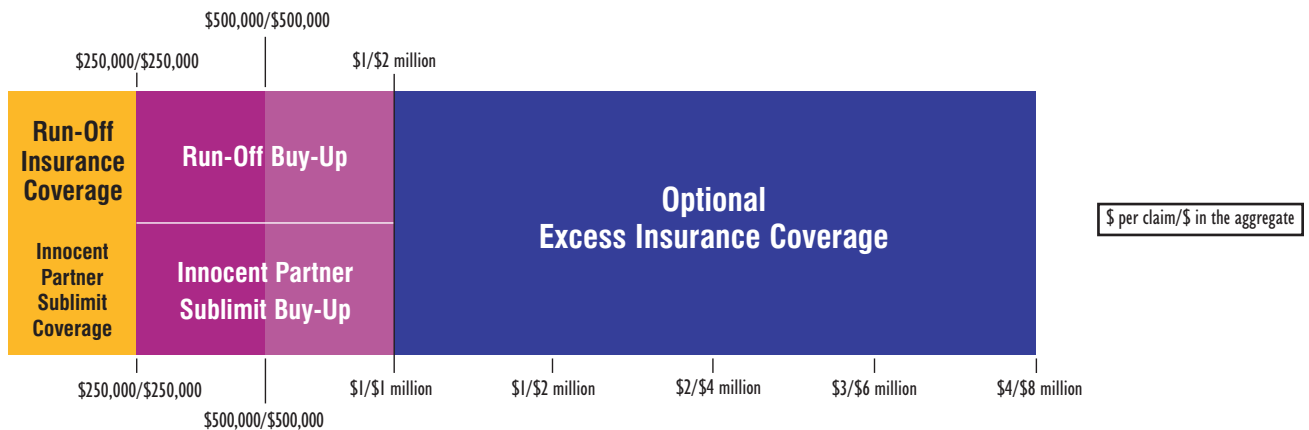
\*\*\* Coverage for dishonest, fraudulent, criminal or malicious acts or omissions.

\*\*\*\* LAWPRO strongly recommends that lawyers buy up their optional coverage limits to the maximum offered, to avoid gaps in coverage.

# 2004 insurance coverage for exempt lawyers\*



- In-house corporate counsel
- Government lawyers, educators and others not in active private practice
- Retired lawyers, judges and others no longer practising law
- Legal aid clinic lawyers (not directly employed by Legal Aid Ontario)



## The standard Run-Off Coverage

**Eligibility:** Provided at no charge to all members of the Law Society who are not in active private practice who qualify for exemption\*\* from payment of insurance premiums and levies.

**Coverage limits:** \$250,000 per claim/in the aggregate, not re-instated annually, subject to the following:

- applies to claims arising out of services provided while the lawyer was in private practice or otherwise maintained the full, ongoing practice coverage;
- does not provide coverage for claims arising out of any services a lawyer provides while exempt from paying the insurance premium; the only exception to this is with respect to *pro bono* legal services provided through an approved *pro bono* legal services program associated with Pro Bono Law Ontario;
- applies to claims expenses, indemnity payments and costs of repairs together.
- includes a sublimit coverage of up to \$250,000 per claim/in the aggregate for Innocent Partner claims.

**Premium:** None.

## Optional Insurance Coverages

### Run-Off Coverage Buy-Up

**Eligibility:** Optional for lawyers with only the basic Run-Off Coverage who are concerned that claims now and in the future may exceed \$250,000 per claim/aggregate.

**Coverage limits:** Exempt lawyers can apply to increase Run-Off Coverage limits to:

- \$500,000 per claim/aggregate; or
- \$1 million per claim/\$2 million in the aggregate;

for terms ranging from two to five years.

**Premiums:** Underwritten on an individual basis, depending on the years practised, areas of law practised, the amount of time since the applicant was in private practice, and other risk-based factors.

## Innocent Partner Sublimit Buy-Up\*\*\*

**Eligibility:** Optional for exempt lawyers who have applied to increase their Run-Off Coverage through Run-Off Coverage Buy-Up and who may be concerned about their innocent partner exposure.

**Coverage sublimits** Innocent Partner Sublimit Coverage can be increased as follows:

- & premiums:**
- to \$500,000 per claim/aggregate for an additional five per cent of the Run-Off Coverage Buy-Up premium; or
  - to \$1 million per claim/aggregate for an additional eight per cent of the Run-Off Coverage Buy-Up premium.

## WHY CONSIDER BUYING UP YOUR INSURANCE COVERAGE LIMITS?

Although you may believe that claims are not as much of an issue for you, now that you are on exemption, the opposite is in fact true. Your exposure to claims is ongoing:

- Legal services which you or former partners or associations provided in the past may give rise to a claim, now or in the future.
- Lawsuits arise from many quarters - past clients, former employers and their officers or directors, shareholders, employees and any others who have relied on your legal advice.
- Many claims do not surface for several years after legal services were provided; up to 10 per cent of claims are not reported until five years after the service that gave rise to the claim was provided.
- Although legislative changes such as the *Limitations Act, 2002*, may provide greater defences, they do not address all areas of exposure.\*

### LIMITED PROTECTION:

Yet, as is detailed on the previous page, the standard Run-Off Coverage provides you with only limited protection

- The \$250,000 per claim/in the aggregate limit applies to ALL of the claims made against you while on exemption (for reasons other than mobility or a temporary leave of absence). In other words, this is all the coverage

you have for ALL claims made against you this year, in the past while you were exempt, and in future years while you are exempt.

- The \$250,000 limit applies to claim expenses, costs of repairs, pre-judgment interest and indemnity payments together for each claim made against you. Any amounts incurred to resolve a claim reduce the funds available to respond to any other claims.

Statistics tell us that 1 in 50 claims against lawyers exceeds the \$250,000 mark; and 1 in 100 claims tops \$500,000. Thus, a single claim, or series of small claims, could easily exceed your \$250,000 Run-Off Coverage limits, leaving you personally liable for any additional costs.

### RUN-OFF COVERAGE BUY-UP (RBU) INSURANCE

If you are concerned that claims arising out of past legal activities could exceed your \$250,000 Run-Off Coverage limits, you can apply to buy up these RBU limits (as well as your Innocent Partner Coverage limits) for an additional premium. RBU Coverage Buy-Up can be tailored to your particular needs, as is more fully described on this page.

\* For a more detailed discussion of the issues that those on exemption should consider in assessing their potential exposure to claims, and for information on Run-Off Coverage and options to increase your coverage limits, please see the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca), or contact our Customer Service Department at 416-598-5899 or 1-800-410-1013 or by e-mail at [service@lawpro.ca](mailto:service@lawpro.ca) and ask for a copy of the Insurance Matters brochure that applies to your category of exemption.

## Excess Insurance Coverage

**Eligibility:** Available to all lawyers in private practice, and to all lawyers with Run-Off Insurance Coverage.

**Coverage limits:** The following Excess limits\*\*\* are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a FIRM basis (i.e. for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$2 million in the aggregate;
- \$2 million per claim/\$4 million in the aggregate;
- \$3 million per claim/\$6 million in the aggregate;
- \$4 million per claim/\$8 million in the aggregate;

**Premiums:** Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

\* Lawyers eligible for the "mobility" exemption have insurance coverage as described on page 5.

\*\* Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

\*\*\* LAWPRO strongly recommends that lawyers buy up their optional coverage limits to the maximum offered, to avoid gaps in coverage.