

# 1 TWO PAGE SUMMARY

## **OCCUPATIONAL ASSOCIATION**

The New South Wales Bar Association (ACN 000 033 652) is an Australian Public Company, Limited by Guarantee. The Association's current Scheme expires in January 2010.

The NSW Bar Association's website is [www.nswbar.asn.au](http://www.nswbar.asn.au)

The occupational group represented by the Association is barristers holding a New South Wales practising certificate. The Scheme only applies to barristers who hold a New South Wales practising certificate, who are members of the Association and who hold approved professional indemnity insurance as provided for in the Scheme. The number of members eligible to be covered by the Scheme is approximately 2100.

The Association's objectives are outlined in clause 3 of the Constitution and include:

- to promote the administration of justice;
- to promote, maintain and improve the interests and standards of local practising barristers;
- to make recommendations with respect to legislation, law reform, rules of court and the business and procedure of courts;
- to seek to ensure that the benefits of the administration of justice are reasonably and equally available to all members of the community;
- to arrange and promote continuing legal education;
- to promote fair and honourable practice amongst barristers; to suppress, discourage and prevent malpractice and professional misconduct;
- to inquire into questions as to professional conduct and etiquette of barristers;
- to confer and cooperate with bodies in Australia or elsewhere representing the profession of the law;
- to encourage professional, educational, cultural and social relations amongst the members of the Bar Association; and
- to make donations to charities and such other objects in the public interest as determined from time to time by the Bar Council.

## **NATURE OF THE SCHEME**

The Scheme operates for the purpose of improving the occupational standards of barristers and to protect the consumers of their services. The Scheme limits the civil liability of barristers to whom it applies.

The liability limited by the Scheme includes, to the extent permitted by the Act, all civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of the Association or to any person to whom the Scheme applies in acting in the performance of his or her occupation. The Scheme does not apply to liability for damages arising from any matter to which the Act does not apply, including, but not limited to, liability for damages arising from death or personal injury to a person, a breach of trust, fraud or dishonesty.

The Scheme does not affect damages which are below \$1 million. The Scheme limits liability for damages to \$1 million provided the person has insurance which is not less than \$1 million. To date, there has never been a successful claim against a NSW barrister that has reached \$1 million in damages.

## **RISK MANAGEMENT**

The Association has adopted many risk management strategies, including:

- requirements for professional entry to practice at the Bar;
- continuing professional development in the areas of ethics and regulation of the profession; management; substantive law, practice and procedure, and evidence, advocacy, mediation and other barristers' skills;
- codes of ethical conduct;
- technical standards and guidance;
- advisory and support services;
- complaints and discipline systems; and
- claims monitoring.

The Bar Association will continue to report annually on the implementation and monitoring of its risk management strategies, the effect of those strategies and any changes made or proposed to be made to them.

## **COMPLAINTS AND DISCIPLINE**

Scheme members are subject to a complaints and discipline system operating under the *Legal Profession Act 2004* (NSW). All scheme members must comply with the provisions of the *Legal Profession Act 2004* (NSW) and *Legal Profession Regulation 2005*.

## **STANDARDS OF INSURANCE**

Scheme members are required to have approved professional indemnity insurance before they are issued with a practising certificate. The NSW Attorney General determines the statutory minimum level of professional indemnity insurance required to be taken out by barristers and also approves the professional indemnity insurance policies on offer by brokers each year.

## **CLAIMS MONITORING**

The Association will continue to request that the Attorney General's Order approving the policies for NSW barristers each year requires that the brokers/insurers provide the Association with claims data so that the Association can continue to monitor claims made against its members. The Association will continue to maintain its long established relationship with the insurers. The Bar Association will continue to report annually to the Professional Standards Council on claims monitoring, tactics, performance measures and monitoring systems.

## **SCHEME ADMINISTRATION**

Responsibility for administration of the scheme and ensuring that it complies with the requirements of the *Professional Standards Act 1994* (NSW) and of the Professional Standards Council rests with the Executive Director; who is assisted on a day to day basis by the Association's Project Officer.

## **DURATION**

The scheme will remain in force for a period of 5 years from its renewal unless it is revoked, extended or ceases in accordance with section 32 of the Professional Standards Act.