

FORM PRACTITIONER MEMBER INSURANCE INFORMATION

As a Practitioner Member of FORM you benefit from a bulk insurance policy arranged by FORM through

Local Community Insurance Services. The insurance cover is included under your Practitioner Membership and provides Practitioner Members with Public/Products Liability and Professional Indemnity insurance at a low cost.

This policy is intended to cover the activities of the designer, craft and visual art practitioner as an individual, primarily as an occupier of a studio or workshop, but also as exhibitor at galleries and other locations, or where commissioned to produce and install a work of art, including public art.

Public & Products Liability Insurance

Limit - \$20,000,000

The Public Liability aspect of this policy will defend any claims where another party makes a claim against you for bodily injury or property damage caused by a negligent act on your part while the Products Liability section covers bodily injury of property damage caused by a fault in the product(s) you have made.

Professional Indemnity

Limit - \$5,000,000

This will provide indemnity to you where a person makes a claim against you for bodily injury or property damage from the provision, production or tendering of art works.

Goods in Care, Custody or Control

Limit - \$100,000

Where you have other people's goods in your control you are at law a Baillie, if you lose or damage this property you may be held responsible for the cost of replacement or repair.

The policy has a sub-limit for this type of risk.

If you are holding property that is more valuable than this on a regular basis you should contact Local Community Insurance Services who may be able to arrange an extension of cover for this higher risk limit.

Please note that this section does not cover you for the loss or damage of your own goods.

The insurance policy will also cover any legal costs authorized by the insurer in defending claims brought against you in the areas detailed above, and this is probably the most important part of the policy.

Legal fees and related costs in defending the case, even if you are blameless, could amount to many thousands of dollars.

The following insurance extensions are automatically available to Accredited Professional members:

Cover for Practitioner members as sub-contractors

The Practitioner Members policy automatically provides indemnity to Principals for their vicarious liability in respect to work carried out by the Practitioner Members for any Principal.

Teaching activities

The Practitioner member insurance policy automatically provides cover for the member teaching their craft or passing on their skills for the following:

Workshop Participant Type	Maximum Participants/Workshop	Maximum Workshops/Year
Adults Only	Unlimited	Unlimited
Children Only	10	12
Children and Adults	10 Children, Unlimited Adults	12

Please note that the number of children per workshop cannot be increased.

Top up cover can be purchased if the number of workshops exceeds 12/year but will not allow an increase in the number of children attending.

Working with others The insurance policy extends to include work away from the usual place of business and while the Public Liability Insurance cover is for an individual practitioner, the policy will include others (paid or unpaid) who work with the Practitioner Members in commissioning a work. These working arrangements may apply to the commissioning and installation of artworks, including public artworks. This cover is limited to jobs involving not more than 3 people.

Advice to Practitioner Members who use Sub-contractors:

Sub-contracting is when a person is engaged by you to carry out work that is not within your expertise, so for example using hired in equipment such as a crane which comes with an operator(s) to install a sculpture, would be Sub-contracting this part of the installation.

If you are using a Sub-contractor they should be able to provide a Certificate of Currency of recent date for a Public Liability Insurance Policy with an indemnity limit of at least \$10,000,000. If this certificate cannot be provided then in the event of a claim, no cover will be afforded the Practitioner Member for the negligent actions of the Sub- contractor so it is important that the Subcontractors has their own cover for the task they are undertaking on your behalf.

Why should I be covered by this insurance?

Broadly there are two reasons for you to take this insurance

1. Prudent management of Your business which are your activities as an artist/craftsperson

You engage with other people (third parties) in the course of your business and there is a potential for you to breach the Duty of Care.

What is the Duty of Care? In this context it is the behaviour reasonably expected of You to not cause injury to another person or damage to their property. A breach of Your Duty of Care can create a legal liability on

You, even if you are not guilty of a breach there could be substantial legal costs incurred in defending yourself.

The policy will defend against allegations of an occurrence which is a breach of your Duty of Care and if you are found responsible pay damages as allowed within the terms and conditions of the policy.

2. Because of requirements imposed on You by another party

It is common on a lease for landlords to require tenants have a Public Liability policy.

Organisers of makers and craft markets, fairs and festivals, exhibitions usually require stallholders to have their own Public Liability insurance.

When accepting a commission for public or private artworks there will usually be an obligation to evidence Public Liability insurance.

If you received a Commonwealth, State or Council grant or funding under NEIS payments you will be asked to confirm you have a Public Liability policy.

Practitioners Membership FAQs

What does the policy cover?

This policy provides You in your practice as an artist/craftsperson.

It will provide an indemnity against all sums which you become legally liable to pay by way of compensation for bodily injury and/or property damage to a third party that is the result of an occurrence which arises from your negligence or the negligence of your employers, including voluntary workers, engaged on your behalf.

The policy includes a Professional Indemnity extension which provides cover where there has been bodily injury or property damage resulting from the provision, production or tendering of artworks

What doesn't the policy cover?

The exclusions to cover are found in more detail the policy wording.

They are listed in heading format below, many of them should not be a problem for the type of activities You engage in but those exclusions that may more commonly impact You have notations which should explain in more detail what you need to do:

- *Employment Liability*

This is Workers Compensation insurance. If you employ people you need to take out a specific Workers Compensation policy;

- *Property in Custody and Control beyond the \$100,000 included in the policy*

This is where you hold another person's property in either in your safekeeping, say after purchase of an artwork and before sending to the buyer, or where you have a client's items to repair or restore.

- *Contractual Liability*

Contractual liabilities are legal obligations you may agree to accept as a part of a contract or agreement.

Normally contractual obligations would not attach at to you under *common law*. A

contractual obligation in many cases mean you are agreeing to pay for the negligence of another party or to waive your rights to recover against them.

You should always read any contracts carefully before you sign them.

In particular look for clauses or sections which have headings or words like *waiver, indemnify, indemnity, subrogation* as these are common in the sections of a contract where you are agreeing to take on another party's responsibility.

- *Professional Liability (except PI as detailed in the outline of cover headed FORM PRACTITIONER MEMBERS INSURANCE)*

If you are giving advice to another person where they are relying on that advice for financial gain(s) or you breach the intellectual property of another party then you could be liable for the financial loss sustained.

So as examples:

1. You are approached by someone wanting to invest in art and you recommend some artists whose work you state will increase in value over the years and it does not the investor could make a claim against you for financial loss. Factors that impact on

Your liability here would be did you give the advice free or for a fee. Was it written advice with disclaimers or absolute advice. If you are engaged in this type of activity you need a specific Professional Indemnity covering the risk of art advice.

2. Probably not a great risk but somebody has alleged that you have copied an existing work or it looks similar to their work and they are suffering 'loss or market' which is financial loss.

- *Exports to USA/Canada;*

If you are actively exporting to the USA or Canada please contact Local Community Insurance Services. The exclusion does not apply to artworks (products) of Yours which are purchased in Australia and taken to the USA or Canada without your knowledge

- *Product Defect;*

This exclusion relates to property damage to Your Products where the damage is as a result of a defect in the the product.

Example : Sculpture casts a cement work but does not used any internal frame or

reinforcement. Subsequently the work cracks and breaks up. The cost or repair/rework is not covered by the policy, but if a bit of the sculpture dropped off and hit someone the bodily injury caused if covered.

- *Loss of Use;*
- *Product Recall;*
- *Aircraft, Aircraft Products and Watercraft;*
- *Vehicles;*
- *Libel and Slander;*
- *Pollution (sudden and unintended not excluded);*
- *Territorial Limits – excludes actions brought in USA/Canada;*
- *Asbestos;*
- *Faulty Workmanship;*
- *Fines, Penalties;*
- *Punitive Damages;*
- *Assault and Battery;*
- *Defect in Design;*
- *Inefficacy of Computers, Software and Computer Consulting;*
- *Treatment and Dispensing;*
- *Child Molestation;*
- *Amusement devices;*
- *Security Personnel;*
- *Terrorism*

How much would this Insurance Cover cost me if I did not sign up through FORM?

The FORM policy has an indemnity limit of \$20,000,000 for Public and Products Liability; \$5,000,000 Professional Indemnity extension; and a sub-limit of \$100,000 for Property of others in your custody or control.

To buy a Public Liability policy without the Professional Indemnity coverage would be somewhere between \$650 and \$1,000 inclusive of GST, stamp duty and fees.

Cost of buying the policy the depends on the size and nature of your business.

If you are actively attending markets, creating public artworks, are engaged in many public or private art commissions, operate from a shop or gallery your risk profile is higher than that of an artist who operates in a home studio and attends the occasional market.

The excess applicable to any claim will also make a difference, the FORM policy excess is **\$250 on property damage claims only**.

The cost of an insurance policy includes GST and Stamp Duty.

Do I have to join at a particular time of year?

No, you can join at any time of year and we will insure that you are signed up to be covered within the month and you will then be covered for a full 12 months.

If I am involved with FORM at Midland Atelier or the Makers Markets do I need to be covered by insurance?

If you are a practitioner who is, or plans to be, involved with FORM at Midland Atelier or the Makers Markets you **MUST** be covered by Public Liability insurance. You will need to take out FORM's Practitioner's Membership or show us evidence that you are covered for Public Liability under another insurance policy.

What should I do if I already have a public liability insurance cover that expires in the next twelve months?

You have two options.

1. Wait for your current policy to expire and then join the FORM as a Practitioner Member
2. Cancel your current cover and join FORM now. Insurance premiums are 'earned' through the year.

If your policy still has 6 months still to run then there should be 6 months 'unearned' premium available to be returned to you if you cancel the policy however you need to be aware it is common for the Insurer(s) to charge a 10% cancellation fee.