

# Professional Indemnity Insurance Policy

Please read this policy in conjunction with the  
Certificate of Insurance



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# Ansvar Insurance – Insurance products with flexible solutions

## Our history

Ansvar Insurance has been a trusted name in Australia since 1961. Owned by UK Insurance company, Ecclesiastical Insurance Office plc, we enjoy substantial financial backing and are proud to meet the rigorous regulatory requirements of an insurer serving Australians.

## Why insure through Ansvar Insurance?

With almost 50 years of experience in Australia we understand what customers are seeking in their insurance company: a trusted, responsible and professional organisation where you are treated with respect and care and offered choice and flexibility. Offering value for money, personal service and a demonstrated commitment to community programs explains why we are the insurer of choice for our Australia wide customers.

## Developing our young Australians

We are honoured to provide support to many community organisations throughout Australia. Each organisation provides valuable support to improve and enrich the lives of Australian youth so that they may contribute positively to the community in which they live. To find out more about our grants to Community Education Program please visit our website [ansvar.com.au](http://ansvar.com.au)

## Our insurance advantage

Ansvar Insurance is a specialist insurance company with a deep understanding of the issues confronting our customers.

We believe in offering more than just insurance. Our dedicated staff are committed to helping clients protect their assets by providing:

- specialist insurance advice in our core markets
- flexibility in underwriting
- independent, on-site, risk management inspections and expert advice to find solutions
- risk management seminars and advice on helping clients develop their risk management programs

## Who is the insurer and how can we be contacted?

Ansvar Insurance Limited, ABN 21007 216 506, is the issuer of this insurance policy. The registered office of Ansvar Insurance is Level 18, 303 Collins Street, Melbourne, Victoria. The Ansvar Insurance Australian Financial Services Licence number is 237826.

You can contact us by:

- calling in person at any Ansvar Insurance office
- telephoning 1300 650 540
- facsimile on 03 9614 1545
- writing to any office of Ansvar Insurance
- email to [insure@ansvar.com.au](mailto:insure@ansvar.com.au)

## Cooling off period

We will refund the entire premium you have paid for cover under this insurance policy if you cancel the policy within 21 days of its commencement. To do this, you must advise us in writing and return the insurance policy and certificate of insurance to your nearest Ansvar Insurance office.

You will **not** receive a refund if you have made a claim, or intend to make a claim, under the insurance policy.

## Costs

The premium payable by you is shown in your Certificate of Insurance. The factors used to determine the premium payable under this policy include:

- the nature, age and size of the business;
- the main occupation of the insured and the activities the business are engaged in;
- the extent and nature of professional services supplied and any contractual liabilities assumed by the business;
- the qualification of personnel and extent of supervision/delegation;
- the risk management in place;
- the extent of cover and any extensions required;
- the period of insurance (short-term/annual), and length of retroactive cover;
- the sums insured or limits of liability;
- the excess selected;
- past claims, incidents, proceedings and disciplinary history.

The premium is payable either when the product is purchased or by direct bank debit when you elect to pay it monthly. If you elect to pay monthly there is an additional fee. A cancellation fee may apply if you cancel your insurance policy before expiry.

Premiums and fees are subject to Commonwealth and State taxes and levies which include the Goods and Services Tax and Stamp Duty, if applicable to your state. All are shown on your Certificate of Insurance

## Code of Practice and Privacy Act

As a signatory to The General Insurance Code of Practice we are committed to raising standards of service to our customers. This voluntary code sets out the minimum standards we will uphold in the services we provide to you.

The Privacy Act sets out how we are to collect, use, disclose and protect your personal information. It also describes the circumstances for you to access and, if necessary correct your personal information.

## Complaints

If you are not satisfied with our service we recommend that you use the complaints procedure set out below. The type of complaint could relate to the behaviour of or advice given by an Ansvr Insurance employee or authorised representative, a decision on a claim, the privacy of your personal information or any other matter relating to your insurance that is of concern to you. These procedures are available free of charge to you.

First, contact the employee or authorised representative with whom you have had contact to see if he or she can resolve the problem. If that is not possible, then contact the Regional Manager in your state. The Regional Manager will review the information and give you a response as quickly as possible; but no later than three working days from the date when the complaint is received.

If you are not satisfied with the response given by the Regional Manager, then please put your unresolved complaint in a letter and address it to:

The Secretary  
Internal Dispute Resolution Committee  
Ansvr Insurance Limited  
303 Collins St, Melbourne VIC 3000

You can also telephone the Secretary with your complaint on (03) 9614 3535, fax it on (03) 9614 2740, or choose to email your complaint to the Secretary at [insure@ansvar.com.au](mailto:insure@ansvar.com.au)

The Secretary will refer your complaint to the Committee which comprises the CEO, Operations Manager and one of the non executive directors of Ansvar Insurance Limited, for a decision.

The Internal Dispute Resolution Committee has appropriate authority to deal with unresolved complaints. You will receive a response within seven (7) working days from the time the Internal Dispute Resolution Committee receives your unresolved complaint, or alternatively you will be asked for further information. If further information is required, you will receive a decision within seven (7) working days from the time Ansvar Insurance receives the additional information.

### **What if we don't resolve your problem?**

Once the Internal Dispute Resolution Committee gives you an answer, we will provide you with information about external dispute resolution if that is available.

For many complaints that is the Financial Ombudsman Service (FOS). FOS provides a free and independent dispute resolution service for consumers which have general insurance disputes that are covered by its Terms of Reference. If you wish your dispute to be reviewed by FOS, you must refer your dispute to FOS within three calendar months of receiving the Internal Disputes Resolution Committee's decision. You can do this by contacting FOS at:

Financial Ombudsman Service  
GPO Box 3, Melbourne VIC 3001  
Ph: 1300 78 08 08 (National toll free)  
Ph: (03) 9613 7366  
Fax: (03) 9613 6399  
Email: [info@fos.org.au](mailto:info@fos.org.au)  
Website: [www.fos.org.au](http://www.fos.org.au)

Alternatively, you may further pursue your unresolved complaint through a formal legal process such as the courts, mediation, or arbitration.

For privacy complaints you may approach the Federal Privacy Commissioner. A copy of the General Insurance Code of Practice and privacy principles can be obtained from our website [ansvar.com.au](http://ansvar.com.au) or from one of our offices.

## **Important notices to Policyholders**

It is important to read/retain the following documents and keep them in a safe and convenient place:

- this document
- your current Certificate of Insurance

Remember to regularly review your insurance policy, particularly at renewal to ensure your insurance policy provides the cover that you currently need.

### **Duty of disclosure**

Before you enter into an insurance contract with us, you are required to tell us every matter that is known to you, being a matter that:

- you know to be relevant to the decision by us to accept the risk and if so, on what terms; or
- a reasonable person in the circumstances could be expected to know to be a matter so relevant.

If you have not disclosed all relevant information, or if you have misinterpreted the facts, then we may be entitled to cancel the policy, reduce the sum insured, or treat the policy as never having existed.

If you do not tell us all relevant matters we can reduce the amount we pay for any claim or cancel this insurance policy. If your non disclosure is fraudulent we can void the insurance policy from the beginning.

## The contract between you and Ansvar Insurance

When we have received your premium, we will insure you against the events described in this insurance policy. This insurance covers events happening anywhere in Australia during the period of insurance shown in the certificate of insurance. Your insurance commences and concludes at 4.00pm local time on the dates shown.

If the terms of this agreement are not observed, cover may be reduced or cancelled.

### Claims made

This insurance operates on a 'claims made' basis which means that you are covered for:

1. claims made against you during the period of insurance and notified to us during such period providing you were not aware at any time prior to the commencement of such period of any circumstances which could lead to a claim being made against you; and
2. facts you first became aware of during the period of insurance which may lead to a future claim providing you notify us during such period of such facts.

### Additional parties

Where this policy insures more than one party, any failure on the part of any of the parties to:

1. comply with the duty of disclosure in terms of the Insurance Contracts Act 1984, or
2. comply with any obligation in terms of this policy, or
3. refrain from conduct which is dishonest, fraudulent, criminal or malicious,

shall not prejudice the right of the remaining party or parties to indemnity in terms of this policy, provided that such remaining party or parties shall be entirely innocent of and have had no prior knowledge of any such failure and/or non compliance and as soon as practicable after becoming aware of any such failure advise us in writing of all its relevant circumstances.

### Cancellation

You may cancel this insurance policy at any time by notifying us in writing. We can cancel this insurance policy in accordance with the Insurance Contracts Act 1984. We will be entitled to retain premium for the period during which the insurance policy has been in force. You may be required to pay a cancellation fee if you cancel the insurance policy.

### Continuous cover

Notwithstanding exclusion 7 of this policy, we will cover you for any claim not otherwise excluded by this policy where:

1. we were your professional indemnity insurer when you first knew of the relevant known circumstances; and
2. we continued without interruption to be your professional indemnity insurer up until this current period of insurance; and
3. had we been notified by you of the known circumstances when you first knew of it, you would have been covered under the policy in force at that time; and
4. the claim has not previously been notified to us or any other insurer; and

5. there is an absence of fraudulent non-compliance with your duty of disclosure and an absence of fraudulent misrepresentation by you in respect of such facts.

The amount of cover we provide under this benefit is the limit of liability existing at the time of the known circumstance.

We may reduce our liability under the policy to the extent of any prejudice we may suffer in connection with your failure to notify us of at an earlier date of the circumstances which have led to the claim.

### **Excess**

This amount is shown in the certificate of insurance and represents the first amount which is payable by you in respect of any damages and claimants cost and expenses arising out of any one claim made against you. For the purposes of assessing the excess all claims attributable to the same breach of duty or series of breaches of duty consequent upon or attributable to one source or original or causally connected cause shall be regarded as one claim.

### **Intellectual property**

The term 'any form of civil law' in the definition of breach of duty shall include the law in respect of unintentional infringement of trade mark, registered design, copyright or patent right or plagiarism or unintended breach of confidentiality.

### **Interpretation**

Where headings are used in this policy, they are purely descriptive in nature and are not intended to be used for interpretative purposes.

Words importing the singular number shall include the plural and vice versa.

### **Jurisdiction**

This insurance policy shall be governed and construed in accordance with the laws of Australia. Any dispute under this insurance policy shall be resolved in accordance with the laws of Australia.

### **Other insurance**

If at the time any claim arises under this policy there is any other insurance in force covering the same liability, you must promptly notify us of the full details of such other insurance, including the identity of the insurer and the policy number, and such further information as we may reasonably require.

### **Subrogation**

If any payment is made under this policy in respect of a claim we will be subrogated to all your rights and shall be entitled to pursue and enforce such rights in your name and you are required to provide us with all reasonable assistance and co-operation.

### **Waiver of any rights**

We will not pay any claim where you have agreed not to recover from persons liable to compensate you in respect of such claim.

## Definitions

In this insurance policy:

<b><i>breach of duty</i></b>	means a breach of a duty owed in a professional capacity under any form of civil law by you or any of your employees arising out of any act, error or omission occurring or committed in such professional capacity.
<b><i>business or practice</i></b>	means the business or practice described in the certificate of insurance.
<b><i>certificate of insurance</i></b>	means the certificate of insurance attaching to this wording or any certificate of insurance subsequently issued during the period of insurance.
<b><i>claim</i></b>	means a demand or assertion of a right to compensation by reason of an actual or alleged breach of professional duty arising out of any act, error, omission or conduct and which is defined in any legal proceeding claiming compensation against and served on you.
<b><i>computer or electronic equipment</i></b>	means any equipment or system for processing, storing or retrieving data and shall include but shall not be limited to any computer hardware, firmware or software, media microchip, integrated circuit or similar device.
<b><i>documents</i></b>	means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments) not being your property but in your physical custody or control.
<b><i>employee</i></b>	means any person directly employed in the business or practice at the time of any breach of duty giving rise to a claim, including any former employee.
<b><i>electronic data</i></b>	means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for such equipment.
<b><i>you</i></b>	means the insured person or company shown in the certificate of insurance, including any predecessor in the business or practice.
<b><i>insurer, we, us, our</i></b>	means Ansvar Insurance Limited ABN 21 007 216 506.
<b><i>molestation/sexual abuse</i></b>	means any attempted or committed physical or verbal act, communication, contact or other conduct of a sexual nature, assault, intimidation, harassment, discrimination, lewdness or any type of molestation.
<b><i>period of insurance</i></b>	means the period of insurance shown in the certificate of insurance.
<b><i>retroactive date</i></b>	means the retroactive date shown in the certificate of insurance.
<b><i>sexual behaviour</i></b>	means any attempted or committed verbal or non verbal act, communication, contact or other conduct or similar conduct of sexual discrimination, intimidation, molestation, harassment, abuse or lewdness.

## Cover

In consideration of the payment of the premium stated in the certificate of insurance, we will provide the cover set out in the policy in accordance with the terms and conditions expressed.

1. We will indemnify you for your legal liability to pay compensation and claimant's costs and expenses arising from any claim first made against you and notified to us during the period of insurance resulting from any breach of duty in connection with your business or practice;
2. We will also indemnify any of your employees in respect of liability (other than for such employees' dishonest, fraudulent, criminal or malicious breach of duty) for which you would have been entitled to indemnity under this policy if the claim had been made against you, provided that the employee shall be subject to the terms of this policy so far as they can apply;
3. We will indemnify the estate, heirs or legal assigns of any natural person insured under this policy in the event of the death or legal incapacity of such person, but only to the extent to which such person would have been entitled to indemnity under this policy had such death or legal incapacity not occurred, and provided the indemnity given shall be subject to the terms of this policy so far as they can apply;
4. Our total liability for compensation arising from all claims first made against you or any of your employees and notified to us during the period of insurance shall not exceed the aggregate liability as set out in the certificate of insurance.

## Expenses and other costs

In addition to the indemnity provided above, we will make the following supplementary payments in connection with the investigation, defence and/or settlement of any claim:

1. all legal costs and expenses including those associated with any inquiry incurred with our prior written consent;
2. all charges expenses and legal costs recoverable from the insured by claimants in connection therewith;
3. all expenses incurred by you for first aid rendered to third parties at the time of an occurrence covered by this policy;

where the amount required to settle a claim exceeds the limit of liability shown in the certificate of insurance, we will only pay part of the supplementary payments. The amount payable by us will be in the proportion that the limit of liability bears to the total amount required to settle the claim.

## Libel and slander

We will indemnify you and any of your employees against legal liability for compensation and claimant's costs and expenses and other costs in respect of claims made against you or any of your employees and notified to us during the period of insurance for libel or slander committed by you or by any of your employees in the course of carrying on the business or practice.

## Malpractice

All sums for which you are legally liable to pay compensation and claimants' costs and expenses in respect of claims made against you and notified to us during the period of insurance, arising out of bodily or mental injury or death caused by:

1. any act, error or omission or conduct for professional services rendered by any nurse, technician or volunteer (but not a medical practitioner or a midwife) for whom you are legally liable; or

2. an act, error, omission or conduct of a registered medical practitioner or healthcare professional, but only in respect of liability attaching to you only.

### **Trade Practices Act**

We will indemnify you and any of your employees against legal liability for compensation and claimant's costs and expenses and other costs in respect of claims made against you or any of your employees and notified to us during the period of insurance, being claims arising under the provisions of the Trade Practices Act 1974 (Cwth), the Fair Trading Act 1987 (NSW) or similar legislation in other states, but not being claims arising:

1. under the penal or criminal provisions of any of those statutes; or
2. from your conduct or any of your employees which is fraudulent or intended to mislead or deceive.

### **Lost documents**

We will in the event of loss of or damage to documents indemnify you and any of your employees in respect of all costs and expenses reasonably incurred by you or any of your employees in replacing or restoring such documents; provided that:

1. such loss or damage is sustained during the period of insurance while the documents are on your premises or in transit anywhere in the world (other than the USA or Canada) or in your custody or of any person to whom you have entrusted them in the course of the normal conduct of the business or practice; and
2. the amount of any claim for such costs and expenses shall be supported by bills and accounts which shall be subject to approval by a competent person to be nominated by us with your consent; and
3. we shall not be liable in respect of loss or damage caused by riot or civil commotion; and
4. our total liability under this clause shall not exceed \$100,000 during the period of insurance.

### **Exclusions**

We will not cover any claim arising from or attributable to:

1. any act, error or omission occurring or committed prior to the retroactive date.
2. any breach of duty by you or your employees where the act error or omission out of which such breach of duty arose occurred or was committed in your or your employee's capacity as a director of any corporation or other incorporated body.
3. or arising out of any trading debt incurred, or any guarantee in respect of such debt given, by you or your employees.
4. any dishonest, fraudulent, criminal or malicious breach of duty by you or your employees or any person condoning such act, including a reckless disregard for the consequences, or any deliberate breach of any statute or regulation by you or any of your employees with your consent.
5. any action for compensation brought or first brought against you or your employees in the USA or Canada.

6.
  - a. ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or
  - b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear device or assembly, or a nuclear component thereof.
7.
  - a. claims first made against you or your employees prior to the inception of the period of insurance, and
  - b. claims arising out of facts or circumstances which were:
    - i. known to you or your employees prior to the inception of the period of insurance and which a reasonable person in your position would have known might give rise to a claim, or
    - ii. notified under any insurance which was in force prior to the inception of the period of insurance.
8. liability arising from:
  - a. war, invasion, act of foreign enemy, hostilities, rebellion or warlike activities (whether war is formally declared or not), civil war;
  - b. mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any act of any person acting on behalf of or in connection with any organisation the objects of which include the overthrowing or influencing of any de jure or de facto government by violent means.
9. acts of terrorism – refer to your current certificate of insurance.
10. liability arising from asbestos or asbestos products in any form or quantity or for defending any claim for such actual or alleged liability. However, this exclusion shall not apply if any injury sustained is unrelated to the inherently hazardous nature of asbestos.
11. liability to any of your employees or to any person deemed to be employed by you under any relevant workers compensation or similar legislation.
12. liability for fines, penalties liquidated damages, punitive, exemplary, aggravated or multiplication of compensatory damages, taxes, levies, imposts or duties imposed by a court of law or under any statute or government regulation.
13. liability to or caused by your employees imposed by the provision of any industrial award, agreement or determination.
14. any investment advice or information or opinion regarding investment or failure to provide investment advice or information.
15.
  - a. loss or damage in respect of which you or your employees have at any time by deed or agreement foregone excluded or limited a right of recovery; or
  - b. claims in respect of or arising out of any civil liability which is assumed by you or your employees outside the normal course of the business or practice.
16. work undertaken for or on behalf of:
  - a. any company or firm in which you or your employees exercise or have exercised a controlling interest or
  - b. your parent company (if any), any subsidiary company, or any other company in which you or your parent company has or has held at least a 20% financial interest unless such claim or costs or expenses emanates from an independent third party.
17.
  - a. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of electronic data,
  - b. errors in creating, amending, entering, deleting or using electronic data, or
  - c. total or partial inability or failure to receive, send, access or use electronic data for any time at all from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

18. actual or alleged unlawful discrimination (or other unlawful act, error or omission ) by you against any employee or employment applicant.
19. any actual or alleged molestation or sexual abuse.
20. liability in respect of:
  - a. any criminal act or any act committed while in violation of any law or ordinance; or
  - b. the performance or recommendation of any operation to produce sterility, unless pathologically indicated; or
  - c. the use of drugs for weight reduction; or
  - d. the performance by dentists and dental surgeons of:
    - i. general anaesthesia; or
    - ii. any procedure carried out under general anaesthetic.
21. liability in respect of any claims made against any person who is:
  - a. a medical practitioner, as defined under the Medical Indemnity (Prudential Supervision and Products Standards) Act 2003, for the purposes of any provision in Part 3 of that Act; or
  - b. a self-employed registered health professional [as defined in the Medical Indemnity (Prudential Supervision and Product Standards) Act 2003] prescribed by the regulations, for the purposes of any provision in Part 3 of that Act;where the claim is in connection with such person acting in their capacity as medical practitioner or prescribed registered health professional.
22. liability arising from:
  - a. bodily injury or property damage involving the use of your internet/intranet operations;
  - b. property damage to computer data or programs and storage media involving:
    - i. the use of any computer hardware or software;
    - ii. the provision of computer or telecommunications services by or on your behalf;
    - iii. the use of computer hardware or software of any third party, whether authorised or unauthorised, including any damage caused by any computer virus.

## Claims procedures

### Notification of claims

You must forward to us every originating process, whether by way of writ, summons, third party notice or cross claim, immediately upon receipt or service thereof and notice of any prosecution, inquest or fatal accident inquiry which you receive. This must be notified to us during the period of insurance. If this is not done your right to cover under this policy may be affected.

All notices to us under any provisions of this policy shall be validly and lawfully given if it is given in writing and delivered, given by courier, certified mail or facsimile properly addressed to the appropriate party at the address or to the facsimile number stated in the certificate of insurance.

You are required, at your expense, to take all reasonable steps to minimise any claim and to prevent further claims arising out of the same or similar conditions.

### Settlement of claims

You must not make any admission of liability, offer, promise of payment, take any action that may be considered to be an admission of liability, settle or repudiate a claim without our prior written consent.

We shall have full discretion in the conduct and defence, in your name and on your behalf, of any proceedings in connection with, and in the settlement of any claim and you shall give all such

information and assistance as we may require. We shall be entitled to attend any inquest or fatal accident inquiry in respect of which there may arise any liability under this policy.

If you refuse to consent to any settlement recommended by us and elect to contest or continue any legal proceedings in connection therewith, our liability for the claim shall not exceed the amount for which the claim could have been so settled, less the applicable excess, plus costs and expenses incurred up to the date of such refusal.

Unless these terms are complied with, our liability in respect of any claim shall be reduced by the amount that fairly represents the extent to which our interests have been prejudiced thereby.

### **Claims co-operation**

You must use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any loss hereunder, and shall immediately give all such information and assistance to us as we may reasonably require to enable us to investigate and to defend the claim and/or to enable us to determine our liability under this policy.

We may take whatever action that we consider appropriate in respect of the claim against you and such action by us will not be regarded in any way prejudicing our position under this policy and no admission of the entitlement to indemnity under this policy shall be implied.

### **Fraudulent claims**

As a protection for all insurance policy holders we will take legal action against any person who makes a fraudulent claim.

If a fraudulent claim is made we will not pay it and we will take action to recover any moneys already disbursed in respect of the claim. We will also cancel the insurance policy.

**Ansvar Insurance**

1300 650 540

[ansvar.com.au](http://ansvar.com.au)

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Fullarton 5063  
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**Ansvar Insurance Ltd.**

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Member of the Ecclesiastical Insurance Group

