



STATUTORY INSTRUMENTS.

S.I. No. 699 of 2024



PROPERTY SERVICES (REGULATION) ACT 2011 (PROFESSIONAL
INDEMNITY INSURANCE) (AMENDMENT) REGULATIONS 2024

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INDEMNITY INSURANCE) (AMENDMENT) REGULATIONS 2024

The Property Services Regulatory Authority, in exercise of the powers conferred on it by section 95 of the Property Services (Regulation) Act 2011 (No. 40 of 2011), with the consent of the Minister for Justice (as adapted by the Justice and Equality (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 452 of 2020)), hereby makes the following regulations:

Citation

1. (1) These Regulations may be cited as the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) (Amendment) Regulations 2024.

(2) The Principal Regulations, the Regulations of 2020 and these Regulations may be cited together as the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) Regulations 2012 to 2024.

Commencement

2. These Regulations come into operation on 3 March, 2025.

Definitions

3. In these Regulations—

“Principal Regulations” means the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) (Amendment) Regulations 2012 (S.I. No. 182 of 2012);

“Regulations of 2020” means the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) (Amendment) Regulations 2020 (S.I. No. 161 of 2020).

Amendment of Regulation 2 of Principal Regulations

4. Regulation 2 (as amended by Regulation 2(a) of the Regulations of 2020) of the Principal Regulations is amended—

(a) by inserting the following definitions:

“‘authorised broker’ means an insurance intermediary that holds an authorisation from the Central Bank of Ireland to carry on the business of insurance distribution for the purposes of the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229 of 2018) or that is otherwise entitled to carry on the business of insurance distribution in the State;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th December, 2024.*

‘certificate of compliance’ means the certified certificate for the time being in force, in the specified form, verifying that a licensee or an applicant for a licence has procured and is maintaining in place professional indemnity insurance in accordance with these Regulations, for the entire duration of the period of indemnity and which said certificate of compliance has been issued by an authorised insurer or an authorised broker;

‘defence costs’ means legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the consent of the authorised insurer in relation to a claim, including but not limited to the costs of—

- (a) defending any proceedings,
- (b) conducting any proceedings for indemnity, contribution or recovery, and
- (c) investigating, reducing, avoiding or compromising any actual or potential claim,

but not including any internal expenses of the licensee or former licensee or costs for the time of the licensee or former licensee;

‘insurance distribution’ and ‘insurance intermediary’ have the meanings assigned to them by the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229 of 2018);”,

- (b) by deleting the definitions of “run-off cover” and “run-off period”.

Amendment of Regulation 4 of Principal Regulations

5. Regulation 4 (as amended by Regulation 2(c) of the Regulations of 2020) of the Principal Regulations is amended by substituting for paragraph (3) the following paragraphs:

“(3) A licensee shall, if requested at any time, provide to the Authority, within 14 days of the request—

- (a) a certificate of compliance,
- (b) a copy of the policy, or
- (c) such other evidence as the Authority shall request,

in relation to the licensee’s current professional indemnity insurance.

(4) Where an applicant for a licence is successful, he or she shall provide to the Authority, prior to the start date of the licence, such evidence in relation to the professional indemnity insurance as the Authority may request, which may include—

- (a) a certificate of compliance, or
- (b) a copy of the policy.”.

Amendment of Regulation 6 of Principal Regulations

6. Regulation 6 of the Principal Regulations is amended by substituting for paragraphs (a), (b) and (c) the following paragraphs:

- “(a) provide a minimum cover of €1,000,000 for each and every claim (exclusive of defence costs) with no limitation on the number of claims made in any one year, and
- (b) provide cover for defence costs.”

Amendment of Regulation 7 of Principal Regulations

7. Regulation 7 of the Principal Regulations is amended—

- (a) by substituting for paragraph (1) the following:
 - “(1) A licensee may agree with his or her authorised insurer a self-insured excess in respect of his or her professional indemnity insurance, provided that the licensee maintains a capacity to pay such excess, if required, at all times throughout the period of cover.”, and
- (b) by inserting after paragraph (4) the following paragraph:
 - “(5) Where the self-insured excess referred to in paragraph (1) applies, it shall apply on an individual claim basis, and not on an aggregate basis.”.

Amendment of Regulation 8 of Principal Regulations

8. The Principal Regulations are amended by substituting for Regulation 8 the following:

“Insurance cover following cessation of trade

8. A licensee shall make all reasonable efforts to ensure that, in the event that he or she ceases to provide property services, his or her policy of professional indemnity insurance will cover any claims made after such cessation.”.

Amendment of Regulation 9 of Principal Regulations

9. Regulation 9 of the Principal Regulations is amended—

- (a) in paragraph (1)—
 - (i) by deleting “reasonably”,
 - (ii) by substituting “30 days” for “10 working days”, and
 - (iii) by deleting “or run off cover”, and
- (b) by substituting the following for paragraph (2):

“(2) A licensee shall provide to the Authority, or procure that there is provided to the Authority on the licensee’s behalf, a certificate of compliance or a copy of the professional indemnity insurance policy within 30 days of the insolvency event or non-performance event that gives rise to the obligation to establish and maintain professional indemnity insurance cover pursuant to paragraph (1).”.

Amendment of Regulation 10 of Principal Regulations

10. Regulation 10 of the Principal Regulations is amended—

- (a) by deleting “or run off cover”, and
- (b) by inserting “in compliance with these Regulations” after “provides retroactive cover”.

Substitution of Regulation 11 of Principal Regulations

11. The Principal Regulations are amended by substituting for Regulation 11 the following:

“Transitional arrangements

11. Notwithstanding the amendment of these Regulations by the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) (Amendment) Regulations 2024 (S.I. No. 699 of 2024), the provisions of these Regulations shall continue to apply as if they had not been so amended in respect of periods of indemnity which commenced before 3 March, 2025.

The Minister for Justice consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Justice,
12 December, 2024.

HELEN McENTEE,
Minister for Justice.

MICHAEL QUINLAN,
Chairperson, Property Services Regulatory Authority.

MAEVE HOGAN,
Chief Executive, Property Services Regulatory Authority.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the Property Services (Regulation) Act 2011 (Professional Indemnity Insurance) Regulations 2012 to ensure that the provisions of those Regulations align effectively with current market conditions in respect of professional indemnity insurance in the property services sector.

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