

### **Important features of Professional Indemnity & Public Liability Insurance**

Professional Indemnity and Public Liability insurances are essential for professional consultants. It is necessary to ensure your insurance has certain features relevant to your industry.

Consultants working in the minerals industry may include Mining Engineers, Geologists, Geoscientists, Metallurgists and professionals working in the areas of Health and Safety, Environment or Management to name a few. Each may require specific features within their policies by way of specialised wordings or endorsed benefits.

When first arranging insurance and at each renewal it is imperative that you declare and fully describe all occupational activities within the proposal form to allow most suitable cover to be arranged on your behalf. Without full disclosure, problems may occur in the event of a claim where a claim could be denied or proportionally reduced depending on the nature of the non-disclosure.

Importantly, if your occupation involves estimating Mineral Resources and Ore Reserves or valuing mineral properties, it is important to know that some standard Professional Indemnity wordings within the market exclude these activities. Certain Insurers will endorse their wordings to override the standard exclusions, on the proviso that the valuation or estimation must adhere to the Valmin Code, Society of Petroleum Engineers or JORC guidelines. The relevant guidelines are dependent on your occupation.

Public Reports prepared in accordance with the JORC Code are prepared for the purpose of informing investors or potential investors. Essentially, if a claim ensues from data prepared and these industry standards have not been adhered to when preparing the company reports, press releases, internet postings or Mineral Resources and Ore Reserves estimates an Insurer may deny the claim or reduce the claim to the extent that your report goes against or does not follow guidelines and third parties have relied on the errors in your advice.

Care also needs to be taken in that some wordings provide cover for Mineral Resource and Ore Reserve estimates, but exclude valuation work.

Depending on the occupation and activities undertaken some consultants may have exposure to other standard policy exclusions such as pollution from waste product disposal which may also need to be addressed by specific endorsements, hence the importance of full disclosure of activities.

It is important to declare your source of fee income and locations worked to ensure you have suitable Territorial limits and Jurisdictional coverage. Whilst less common there are some wordings in the market that extend coverage to anywhere in the world in respect to Territorial limits. More commonly, insurers will automatically provide coverage for Worldwide Territorial limits with the exclusion of USA / Canada. Therefore if you do perform work in these countries you may require an endorsement to your standard wording to extend coverage to these locations. An additional premium may apply.

Court Jurisdiction may still be limited to Australia or Worldwide excluding USA / Canada without specific endorsement at a premium. It is more difficult for an Insurer to represent you under a different country's jurisdiction, this is particularly arduous and costly in the Northern American court system and it is preferable that if an action arises against you, it occurs under Australian law. Where this coverage is granted by an Insurer, a higher excess than standard may also be applied in respect to claims requiring USA/Canada jurisdiction.

Various issues may arise relevant to Liability policies. For example a mining engineer may need standard exclusions amended or deleted, such as blasting exclusions. Insurer exposure is increased if a consultant is setting the charges for blasting or directly supervising as opposed to instructing third parties how to set charges.

In respect to below ground activities, an insurer will consider blue collar work and ask whether a consultant goes underground to inspect or whether they are actually partaking in manual work. For example, a geologist's pick is not considered to be manual work. Blue collar workers and underground work have ramifications for liability insurers on two fronts, one from the third party exposure and also possible subrogation action from workers compensation insurers acting on behalf of sub-consultants against the first party's liability insurers. Hence, below ground, blue collar and marine work fall into the harder to place categories due to these increased exposures.

If you use subcontractors, Insurers may stipulate that you ensure they have their own insurance. Under your policy, coverage would be provided for you for actions arising from their activities on your behalf, but not for them. It is important to obtain Certificates of Currency from your subcontractors at the outset of their contracted services.

This advice and comments should not be construed as legal advice. Separate legal advice relating to the interpretation and implication of this article for your individual contracts should be obtained.

*This article was prepared with the assistance of Austbrokers Countrywide, which is the endorsed Insurance Broker to the AusIMM and has established an exclusive Professional Indemnity and Public Liability Insurance facility for members. A panel of Insurers have been appointed to meet the wide variety of member needs.*

*The revamped facility includes the following features specific to the core Professional Indemnity and Public Liability Insurance requirements of members:*

- *Highly competitive pricing*
- *Broader cover:*
  - *Includes specific insurance coverage for Geoscience, Mining, Metallurgy, Environmental, Health & Safety and Management disciplines*
  - *Includes cover for reserve estimation and valuation (JORC and Valmin codes activities)*
  - *Includes cover for members working overseas, anywhere in the world.*
- *Exclusive contract review service for AusIMM members*

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