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**South African Professionals Run Gauntlet without Professional Indemnity Cover**

Thousands of South African professionals run a daily gauntlet of operating businesses and offering fee-based consulting services without the safety net of professional indemnity (PI) insurance. Many have been doing so for years, and are increasingly at risk of huge financial losses in the event of a costly mistake leading to a claim against them. Professional Indemnity claims across many professions have risen sharply over the last five years as society becomes more litigious, most notably in the legal and built environment industries.

This is according to Meggyn Marot, Principal Broker at Aon South Africa, a leading risk advisory and insurance brokerage.

“Professional Indemnity insurance is designed to protect the likes of architects, engineers, attorneys, brokers, doctors, estate agents – essentially an individual or practice – who takes a fee for providing a service. It should be at the top of the list of risk management for all professionals, but our own experience shows that many professionals, particularly independent consultants, are still operating without cover and exposing themselves to financial ruin in the event of a mistake that results in a claim,” explains Meggyn.

PI insurance is designed not only for traditional professionals who provide advice or a service to their customers, but anyone who holds themselves out to be an expert in a particular field and whose expertise and advice the public might rely on, for example an IT expert. PI protects them not only for any damages that may be claimed from them by clients or third parties, which may arise out of an act, omission or breach of professional duty in the course of their business, but more importantly the ever escalating legal costs associated with a claim. .

For many professionals, including people like accountants, financial planners and insurance brokers, professional indemnity insurance is a legal requirement. In many other industries, the associated governing body or industry association sets strict guidelines specifying a level of professional indemnity insurance cover that is required to trade and be a member of the professional body. However, many professionals operate without PI cover, especially when trying to cut back on costs, or they believe it is only needed by careless professionals who have to worry about a claim being lodged against them.

“This is definitely not the case, and even if a professional has acted in full accordance with the law and professional standards, if a claim is lodged against them they will need to defend their position and actions in a legal process, the defence costs of which can be massive and drawn out over a number of years. Malpractice claims are by nature long-tailed and can take years to come to a resolution, during this time a practitioner without PI protection would be personally liable for the legal costs and would run the risk of having all their assets attached, facing financial and reputational ruin,” says Meggyn.

“In an environment where your reputation is fundamental to your ability to secure work, a professional cannot ignore any accusations of negligence. Claims must be defended which is a lengthy and very costly process. Over and above the legal defence costs, PI insurance would also cover for any third party damages where malpractice is proven,” she adds.

In the current economic downturn, and especially in industries with significant skills shortages, which adds pressure to under-resourced teams, there is every reason to believe that the current increase in claims notifications will continue for the long term.

**PI Insurance - an affordable essential for any business**

Competition among the professional indemnity insurers remains very strong, and although claims numbers have increased, rates are still relatively soft as there is significant market capacity and appetite.

This being said, it’s crucial to gain good advice when you take out professional indemnity insurance. Firstly, it can be complicated and usually needs a bespoke approach for specific business needs and levels of indemnity. But most importantly the stability and track record of the PI insurer is paramount.

“Professional indemnity by nature is a ‘long-tail’ policy, because firstly claims may arrive some time, potentially even years, after you have provided a service to a client, and secondly, the actual claims process takes years to resolve. Our empirical data suggests that any particular year of insurance generally matures after a period of 60 months has elapsed – five years. You have to be absolutely sure that the insurer is still going to be around to service your claim costs in years to come, and has not entered the market with unsustainable rate cuts simply to gain a foothold in a market that is seen to be a lucrative growth area.

“If you change insurers, whether by choice or necessity – if you have a claim pending or in process relating to a period covered by an old policy - your new cover is highly unlikely to protect you for the existing claim. Even in the instance where an insurer withdraws from the market or collapses, the old insurance will expire and you will be left holding the short stick. This is one market where ‘trusted and well-established’ is critical when it comes to choosing an insurer to place your PI cover with. Additionally, PI cover lapses as soon as you cancel a policy, so many professionals renew their policies for several years after their retirement to ensure they are protected against claims that may arise years after work has been completed’ adds Meggyn.

The services of a professional broker are vital in evaluating your exposure to risk as a professional. A broker with sector specific experience is invaluable in ensuring that your cover is adequate to cover your exposure to risk, that it complies with any professional body or legislated requirements, and that you are not exposed under any exclusions and conditions that may exist on your policy. Aon also provides *Legal Risk Management Services,* a premier service offering out of Aon Professional Risks, exclusively available to our clients. With a clear understanding of a professional’s risks, Aon provides legal opinions and advice, supported by appropriate knowledge of your insurance, with legal and technical experience. “Chiefly we aim to assist with day-to-day legal advice and contract vetting as they relate to their business, by analysing any service contracts to ensure that the they are not in contradiction to the terms of your insurance cover, create a general awareness of your potential exposure to legal liability and assisting you with the initiation of pre-emptive action to avoid claims and disputes wherever possible,” concludes Meggyn.

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