

**BULLETIN: H-1**

**REVISED: June 1993**

## **General Outline of a Typical Professional Liability Insurance Program**

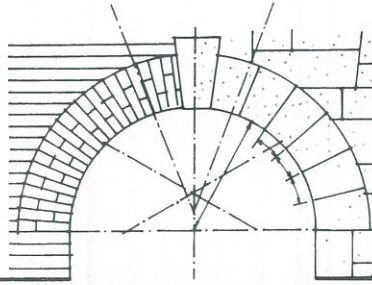
In purchasing this form of insurance, the engineer or architect is basically buying three forms of protection. Firstly, for the payment of claims assessed against the insured for having committed a wrongful act; secondly, for the investigation and defence costs associated with the claims or alleged claims; and thirdly, the reimbursement of other expenses incurred at the request of the insurer.

Professional liability insurance is underwritten on the basis referred to as "claims made". Under a "claims made" policy, coverage applies only if the policy is in force at the time the claim is made. A claim may be a demand for money or an allegation of negligence or breach of contract. For this reason, it is important that coverage be maintained without permitting gaps to form between the various expiry and renewal dates.

Since the insurance is provided on an "all risk" basis, the exclusions become important. Although exclusions may vary in wording, most are fairly standard. They include: infringement of trademark or copyright; insolvency or bankruptcy; failure to advise on insurance; failure to complete drawings or specifications on time; liability of others under contract; warranties or guarantees; duties not customary to the professional architect or the professional engineer and geoscientist; estimates for return on investments or capital; participation in joint ventures or other partnerships which are not the subject of endorsement; any nuclear exposure.

The basic policy provided by the National Program Administrator provides for a limit per claim of \$250,000, subject to an aggregate per year of \$500,000 and \$5,000 deductible. From that point, coverage and limits can be modified ordinarily to suit individual cases. On occasion, modifications of limits in mid-term are necessary as a result of an engineer or geoscientist undertaking a contract where a certain minimum liability limit must be maintained. This can generally be done.

Attached is a sample copy of an application form. The purpose of this document is to provide an underwriter with the necessary information to be able to assess a risk, and thereby affix a premium charge. At the present time, the underwriting industry in this class of insurance is in a state of uncertainty. The number of underwriters willing to write this risk can vary drastically over a short time span. It is, therefore, important for a practising professional engineer or geoscientist to be represented by his broker. Understanding the nature of a professional engineer's or geoscientist's operation is important in terms of the proper relay of information to the underwriting company in order to negotiate the best terms possible.



**PROFESSIONAL LIABILITY  
INSURANCE PROGRAM  
FOR  
ARCHITECTS & ENGINEERS  
IN PRIVATE PRACTICE**

**Application Form**

PROGRAMS ADMINISTERED BY: NATIONAL PROGRAM ADMINISTRATOR, Ottawa, Ont.  
PROGRAMS ENDORSED BY: The Royal Architectural Institute of Canada  
The Association of Consulting Engineers of Canada  
The Canadian Council of Professional Engineers

**The Applicant**

1. Name of applicant: \_\_\_\_\_
2. Address of head office: \_\_\_\_\_
3. Date established: \_\_\_\_\_ Tel. No. \_\_\_\_\_ Telex No. \_\_\_\_\_
4. Location of branch offices: \_\_\_\_\_
5. Predecessor firms: \_\_\_\_\_
6. Total No.: Professional personnel \_\_\_\_\_ Full-time \_\_\_\_\_ Part-time \_\_\_\_\_  
Technical personnel \_\_\_\_\_ Full-time \_\_\_\_\_ Part-time \_\_\_\_\_

7.

Names of partners, active directors (incl. sole practitioner)	University	Degree	Year of Graduation	% Ownership in firm	Province or state in which registered to practise

Please attach curriculum vitae of those listed above.

**Insurance**

8. Has the applicant or predecessor firm previously carried professional liability insurance? \_\_\_\_\_

	Company	Limits	Deductibles	Expiry Date
Previous insurer				
Present insurer				



9. Previous insurance — Has any application for insurance been made on behalf of the applicant, or any of the present partners, officers, directors or employees, or, to the knowledge of the firm, on behalf of their predecessors in business, been declined or cancelled, or has renewal been refused in the past five years? Yes \_\_\_\_\_ No \_\_\_\_\_

10. Please indicate limit and deductible required.

Limit: \$ 250,000 per claim/\$ 500,000 annual aggregate \_\_\_\_\_  
 \$ 500,000 per claim/\$1,000,000 annual aggregate \_\_\_\_\_  
 \$1,000,000 per claim/\$1,000,000 annual aggregate \_\_\_\_\_

Deductible: \$5,000 \_\_\_\_\_ \$10,000 \_\_\_\_\_ \$25,000 \_\_\_\_\_

Other Limit: \_\_\_\_\_

Other Deductible: \_\_\_\_\_

11. Does the applicant usually require proof of professional liability insurance from subconsultants? \_\_\_\_\_. If so, indicate approximate percentage of contracts or mandates undertaken during the last 12 months for which proof of insurance was obtained from all subconsultants \_\_\_\_\_. What percentage of these insured subconsultants are insured through National Program Administrator? \_\_\_\_\_. The answer to this question is NOT ESSENTIAL but may help reduce the applicant's premium.

### Nature of Practice

12. Fee income:	Last 12 Months or Last Fiscal Year	Anticipated Next 12 Months or Next Fiscal Year
(a) Gross fees	\$ _____	\$ _____
(b) Fees paid to subconsultants	\$ _____	\$ _____
(c) Fees emanating from projects & joint ventures separately insured	\$ _____	\$ _____
(d) Fees emanating from services performed in USA or for USA projects (C\$)	\$ _____	\$ _____
(e) Fees emanating from services performed overseas or for overseas projects (C\$)	\$ _____	\$ _____
(f) Market value of non-monetary compensation received in lieu of fees	\$ _____	\$ _____
13. Total construction values (see Guidelines)	\$ _____	\$ _____

### Engineers Only

14A. Please indicate % of gross consulting fees (do not include fees declared under 12.(c)) derived from the following:

Disciplines	%	Projects	%
Services not resulting in construction	_____	Buildings (excluding industrial)	_____
Structural	_____	Industrial, oil & gas	_____
Soils*	_____*	Municipal (water, sewage, etc.)	_____
Civil engineering	_____	Heavy civil (bridges, dams, tunnels)*	_____*
Mechanical	_____	Light civil, roads	_____
Electrical	_____	Marine engineering	_____
Industrial process	_____	Other (specify)	_____
Materials testing	_____		100%
Other (specify)	_____		
	100%		

IMPORTANT: Please indicate percentage of gross fees passed on to subconsultants. \_\_\_\_\_%

\*Important: please enclose curriculum vitae of the senior members of the firm involved in geotechnical work and in work related to bridges, dams or tunnels.

14B. Is the applicant a member of ACEC? \_\_\_\_\_

### Architects Only

15A. Please indicate % of gross consulting fees (do not include fees declared under 12.(c)) derived from the following:

	%		%
Services not resulting in construction	_____	Recreational projects	_____
Residential projects (private)	_____	Institutional projects	_____
Residential projects (multi unit)	_____	Commercial projects	_____
Industrial projects	_____	Other (specify)	_____
IMPORTANT: Please indicate percentage of gross fees passed on to subconsultants. _____%			100%

15B. Are the principals or employees of the firm members of RAIC? If so, please indicate number of member architects, including principals, employed by the firm. \_\_\_\_\_

### See Guidelines

If the answer is 'yes' to any of the Questions 16, 17, 18, full details of operations and personnel involved must be included.

16. Does applicant or any related company engage in actual construction, installation or erection? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
17. Does applicant or any related company engage in actual manufacture, fabrication or assembly? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
18. Does applicant or any related company enter into contracts wherein they assume responsibility for any of the activities mentioned in Questions 16 and 17 above? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
19. Do more than 25% of applicant's fees emanate from a single client (if yes, please state client's name) \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
20. Please indicate the approximate percentage of new mandates or contracts undertaken during the last 12 months for which the applicant used standard contract documents R.A.I.C. #6 or A.C.E.C. #31 \_\_\_\_\_%. Under what percentage of these was the applicant successful in including the standard limitation of liability clause? \_\_\_\_\_%. The answer to this question is NOT ESSENTIAL but may help reduce the applicant's premium.

### Declarations

21. Does the applicant or any of its partners, officers, directors or employees have any knowledge or information of:
- (a) any alleged error, omission or negligent act which might reasonably give rise to a claim against them? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
- (b) any claim made or threatened to be made against them in the last five years? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
- (c) any unresolved job dispute or circumstance which might reasonably result in a claim? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
- (d) having been called upon to make any payment or to forego any claim for fees as a result of any job dispute during the past five years? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_
- (e) Their licence having been suspended or their having been fined or reprimanded during the past five years? \_\_\_\_\_  
Yes \_\_\_\_\_ No \_\_\_\_\_

In the event that the answer 'yes' is given to any of the above questions, full details of the circumstances must be provided.

## Additional Information

PLEASE PROVIDE DETAILS WHERE YOUR ANSWER WAS 'YES' TO THE FOLLOWING QUESTIONS:

9. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

16, 17, 18. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

21. (Indicate amount claimed) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

PLEASE LIST DETAILS OF PROJECTS/JOINT VENTURES INSURED SEPARATELY:

Name of Project/Joint Venture	Location	Insurer	Policy Term

IF NEW APPLICANT, PLEASE ATTACH LIST OF THE 10 LARGEST PROJECTS COMPLETED IN THE PAST FIVE YEARS USING THE FOLLOWING FORMAT. (ALSO ATTACH RECENT COMPANY BROCHURE).

Name of Project & Location	Insurer	Policy Term

## Signature

The applicant has read the foregoing and understands that completion of this application does not bind the Insurer or the Broker to complete the insurance. It is agreed, however, that this application is complete and correct to the best of his knowledge and belief and that all particulars which may have a bearing upon his acceptability as a Professional Liability Insurance risk have been revealed. It is understood that this application shall form the basis of the contract should the Insurer approve the coverage and should the applicant be satisfied with the Insurer's quotation.

It is further agreed that if, in the time between submission of this application and the requested date for coverage to be effective, the applicant becomes aware of any information which would change the answers furnished in response to Question 21 of this application, such information shall be revealed immediately in writing to the Insurer.

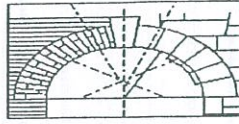
\_\_\_\_\_  
 Signature of Applicant  
 (authorized representative)

\_\_\_\_\_  
 Date

**NATIONAL PROGRAM ADMINISTRATOR**  
 a division of  
**ENCON Insurance Managers Inc.**  
 99 Metcalfe Street, Suite 1200, Ottawa, Ontario K1P 6L7 (613) 238-6373

09 86





## ARCHITECTS & ENGINEERS IN PRIVATE PRACTICE

### Guidelines For The Completion Of Your Professional Liability Insurance Application Form

#### THE FORM

Please ensure that you complete the application form applicable to your particular requirement. There are three types of application forms:

- FORM 1 is for Consultants in Private Practice
- Application for SINGLE PROJECT, GROUP OR JOINT VENTURE is for insurance for a specific project
- Application for INDIVIDUAL ENGINEERS AND ARCHITECTS is for personal coverage for individuals employed by other than consulting firms

THESE GUIDELINES ARE DESIGNED SPECIFICALLY FOR USE WHEN COMPLETING FORM 1.

#### THE APPLICANT (Q. 1)

The name or names you enter here will become the Named Insured(s) shown on the Declarations of the Policy, and will be the only entities for which coverage will be provided.

#### FORMER FIRMS (Q. 5)

The policy may be extended to provide coverage for your liability arising from former or predecessor firms, provided these firms are no longer active. If you require this coverage, please indicate the name of the firm(s) and the date(s) they ceased to operate.

#### PERSONNEL (Q. 6)

For the purpose of this question, "Professional personnel" includes only registered architects and engineers and "Technical personnel" includes draftsmen, field personnel and specification writers.

#### LIMITS AND DEDUCTIBLES (Q.10)

The Policy shows two limits. One is a per claim limit and the other is an aggregate limit which is the maximum amount payable by the Insurer in any one year. Policies with per claim limits of \$250,000 and \$500,000 have annual aggregate limits of twice these amounts respectively. For limits of \$1,000,000 or more, the per claim annual aggregate limits are the same. Limits up to \$12,000,000 are available, except in Quebec where the maximum limit available is \$10,000,000.

The limit is the amount of insurance protection which the Policy will afford. When deciding, it may be appropriate to consider:

- the nature of services your firm provides and their relative importance to projects;
- the size and type of projects with which your firm is involved;
- insurance requirements placed upon your firm by current and prospective clients; and
- any legislated insurance requirements present in the jurisdictions in which you practice.

You may wish to discuss appropriate limits with your insurance broker.

The minimum deductible is \$5,000. Choosing a higher deductible will reduce the cost of insurance. It is important to keep in mind that in most circumstances the Policy will provide "first dollar defence" coverage wherein the Insured will be required to contribute the deductible only if a payment or a settlement is made on a claim by the Insurer. The deductible does not apply to costs incurred by the Insurer for the investigation and defence of claims. The deductible should be an amount which your firm is financially capable of absorbing.

**FEES**  
(Q. 12)

Gross fees include all fees received by the applicant in a 12 month period including those subsequently paid to subconsultants. DO NOT INCLUDE, however, amounts billed to your clients as "disbursements" such as travelling, hotel costs, etc. The answer to 12(a) should include amounts shown in answer to 12 (b) to (f). If there is an amount shown in answer to 12 (f), please explain the form of compensation received in lieu of fees. You may report on the basis of calendar or fiscal year, but should be consistent in doing so on successive years' applications.

**TOTAL CONSTRUCTION Value**  
(Q. 13)

Only show an approximate figure reflecting the amount of construction value for which you have rendered professional services during the course of the year. One way of answering this question VALUE might be to add the progress certificates issued during the year.

**DESIGN/BUILD**  
(Q. 16,17,18)

Conceptually, a professional liability insurance policy provides protection to the insured professional against claims arising out of the rendering of professional consulting services. The Policy is NOT intended to provide errors and omissions insurance to individuals or firms who act as contractors or fabricators. If the answer to any of these three questions is in the affirmative, the applicant is requested to provide separately a full description of activities which are not of a traditional consulting nature. The percentage of the applicant's fees emanating from such activities must also be indicated. Complete information will greatly increase the chances of tailoring the coverage to the applicant's needs and exposures. For example, enclosing with the application an example of a typical contract with the applicant's clients or an organizational chart would help.

**SIGNATURE**

The application must be signed and dated by an authorized representative of the applicant if coverage is to subsequently be made effective. IF THE APPLICATION IS OVER 30 DAYS OLD, a new application must be submitted before coverage can be arranged.

**USEFUL TIPS**

- 1 You can reduce the cost of your professional liability insurance coverage by providing the Insurer with additional information which you feel reduces your exposure to claims. If some of the gross fees you have reported were billed for a project which has been cancelled and will in no event be constructed, this should be indicated. You may also wish to send the Insurer copies of contracts with your clients wherein you were successful in limiting your liability.
- 2 The answers to Question 11 and 20, although not essential, may indicate to the Insurer your efforts to protect yourself by employing subconsultants who insure the professional services they provide to you, as well as your efforts to undertake contracts which allow you to accept liability which is reasonable in comparison to the remuneration you receive.
- 3 Professional liability insurance covers your liability at law and excludes liability assumed contractually by the Insured beyond that imposed by law. If you are insured with the programme, ENCON provides a contract review service and encourages Insureds to submit contracts for comments whenever there is any doubt that the contract wording may jeopardize the Insured's coverage.

ENCON and the Insurers also provide a TOLL FREE HELP LINE (1-800-267-6684) service to Insureds. This allows for prompt consideration of questions relating to contractual matters, and early attention to situations in which an Insured is seeking advice regarding the handling of disputes or potential claims.

**PROGRAMME FEATURES**

**POLLUTION** - Most professional liability insurance policies contain an exclusion for claims arising from pollution risks. If you are interested in obtaining additional information regarding purchasing coverage for this risk, your broker can provide you with an appropriate application.

**NEW REGISTRANTS**

If you have not previously been a principal of a consulting architectural or engineering firm and have started your practice within the past 12 months, you may qualify for coverage under this programme at a reduced premium. Your broker can provide you with additional information and a NEW REGISTRANTS SUPPLEMENTARY APPLICATION to attach to your Form 1 application.

**IMPORTANT**

This document is provided for the purpose of assisting you in the preparation of an application for insurance. It does not constitute any form of insurance. Should you proceed to purchase coverage, the insurance provided will be strictly in accordance with the terms and conditions of your policy.



**SUPPLEMENTAL APPLICATION FOR POLLUTION LIABILITY COVERAGE**

1. Name of Firm: .....

2. Please indicate the approximate percentage of total fees reported in your Application for insurance (including those paid to sub-consultants but not projects insured separately) derived from each of the following project types:

	Past Accounting Year (%)	Current Accounting Year Estimate (%)
<b>A. Studies and Reports</b> (excluding soils investigations or remediation)		
i. Environmental impact studies or assessments	_____	_____
ii. Environmental permit review or approval	_____	_____
iii. Building Inspections/audits	_____	_____
iv. Environmental monitoring (please describe type of service)	_____	_____
v. Air Emission Control Systems	_____	_____
<b>B. Waste Disposal</b>		
i. Waste site evaluation or selection	_____	_____
ii. Design, monitoring or closure of landfills	_____	_____
<b>C. Design or Construction services for remedial action of contaminated buildings</b>	_____	_____
<b>D. Services related to the evaluation, removal or replacement of underground storage tanks</b>	_____	_____
<b>E. Industrial Process Engineering (non-petrochemical)</b>	_____	_____
<b>F. Petrochemical Engineering</b>	_____	_____
<b>G. Design of Laboratories</b>		
<b>H. Soils Investigations</b>		
i. Underground investigations for possible contamination	_____	_____
ii. Determination of extent of contaminated sites	_____	_____
iii. Design of remedial action of contaminated sites	_____	_____
iv. Investigations not related to waste or contamination detection	_____	_____

3. How many years has your firm provided services for the detection, monitoring, handling or disposal of hazardous substances? \_\_\_\_\_

PollApp.Eng.  
7 May 1992



4. Personnel - Please indicate the number of staff involved in environmental work.
- A. Architects/Civil Engineers \_\_\_\_\_
  - B. Process Engineers \_\_\_\_\_
  - C. Geotechnical Engineers \_\_\_\_\_
  - D. Chemists and Biologists \_\_\_\_\_
  - E. Industrial Hygienists or Toxicologists \_\_\_\_\_
  - F. Geologists/Hydrogeologists \_\_\_\_\_
  - G. Environmental Engineers \_\_\_\_\_
  - H. Other Personnel \_\_\_\_\_

Please attach Curriculum Vitae of key personnel if not previously submitted.

5. Have you accepted or do you plan to accept responsibility (either directly or as an agent of the owner) for the actual clean-up, transportation, storage or disposal of a "pollutant"?

Yes                       No                      If yes, please explain

6. For what percentage of environmental work in the past year have you been able to obtain client agreement for:

- A. Complete indemnification \_\_\_\_\_
- B. Partial indemnification \_\_\_\_\_
- C. Limitation of liability \_\_\_\_\_  
(Please attach sample)

7. Has any claim been made or legal action been brought for any pollution or environmental injury or damage in the past three (3) years (or made earlier and still pending) against your firm, its predecessors or employees?

Yes                       No                      If yes, please provide details.

I/we hereby declare that the above statements and particulars are true to the best of my/our knowledge and that I/we have not suppressed or mis-stated any material facts and I/we agree that this application shall be the basis of the contract with the insurance company.

Name of Principal, Partner or Officer .....  
(Type or Print)

Title .....  
Signature .....

(Principal, Partner or Officer)

Date .....

**NOTE:** This application must be reviewed, signed and dated by a principal, partner or officer of this applicant firm.

PollApp.Eng.  
7 May 1992