

TPD 14/2026 – PROFESSIONAL INDEMNITY INSURANCE LAPSE PROTOCOL DURING SRT PROCEEDINGS

Note: This Transitional Practice Direction has been drafted in response to a rules gap identified in the AITAR 2026 framework. It addresses the situation where a Tier B Roster member’s professional indemnity (PI) insurance lapses after appointment to an SRT panel but before the review is concluded. The protocol balances the constitutional requirements of access to justice (Article 48), expeditious administrative action (Article 47(1)), and the personal accountability of the SRT member (Rule 56.7).

1. Purpose and Scope

- To provide a clear procedure when a Tier B SRT member’s PI insurance coverage lapses, expires, or is cancelled **after** appointment and **before** delivery of the SRT determination.
 - To prevent disruption of the SRT review process (which operates under a strict 90-day mandatory period).
 - To ensure that parties and the Institution are protected against the risk of abortive costs without unjustly removing the sitting SRT member mid-proceedings.
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2. Pre-Appointment Verification (Preventive Measures)

- Before appointing any Tier B member to an SRT panel, the Institution shall verify that the member’s recorded PI coverage meets the required **Band threshold** (assessed against the original claim/estate value of the primary proceedings).
 - The Institution shall also confirm that the coverage is in force for the **entire anticipated 90-day period** of the SRT proceedings (including a reasonable buffer).
 - If the member’s coverage is scheduled to lapse during the 90-day period, the Institution shall give the member an opportunity to **extend or replace** the coverage before appointment. If the member cannot or will not do so, the Institution shall appoint the next eligible Tier B member from the random sequential rotation.
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3. Lapse After Appointment – General Principle

- An SRT member whose PI insurance lapses after appointment **shall not be automatically removed** from the proceedings.
 - Removal mid-stream would likely cause **abatement** (failure to determine within 90 days) and would prejudice the parties’ right to a timely review.
 - The member retains **primary personal liability** for any abortive costs under Rule 56.7 in the event of non-delivery, regardless of insurance status.
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4. Procedural Steps Upon Discovery of Lapse

Step Action

- 1** The member immediately notifies the Chief Executive in writing of the lapse, the reason (e.g., non-payment, insurer insolvency, expiry), and the effective date.
 - 2** The Chief Executive notifies all parties of the lapse and of the proposed remedy (see step 3).
 - 3** The Institution shall offer to procure **alternative PI insurance** (tail coverage or a short-term policy) for the remaining duration of the SRT proceedings, using a portion of the SRT fee advance deposit held in trust.
 - 4** The SRT member must provide **written consent** to the procurement of alternative insurance. If the member unreasonably refuses, the Institution may consider removal (see section 5).
 - 5** The cost of alternative insurance shall be deducted from the SRT member's professional fee (if ultimately earned) or, if the SRT abates, from the refunded deposit with the member's indemnity.
 - 6** If alternative insurance cannot be procured within **7 days** of the lapse notice, the Institution shall report the matter to the Chief Adjudicator, who may direct the SRT member to continue uninsured (with full personal liability) or, exceptionally, replace the member if the 90-day period allows.
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5. Exceptional Removal of SRT Member After Lapse

- Removal shall occur **only** if:
 - The member unreasonably refuses to consent to alternative insurance procurement; and
 - Sufficient time remains within the 90-day period (at least 30 days) to appoint a replacement SRT member, bring them up to speed on the record, and issue a new determination.
 - Removal shall be by order of the Chief Adjudicator, after giving the member and parties an opportunity to be heard (FAAA s.4(3)(a)&(b)).
 - If removal occurs, the original SRT fee is forfeited; the new SRT member receives a fresh fee calculated under First Schedule Part 7.
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6. Consequences for the SRT Member

- If alternative insurance is procured:** The member continues. The QAR (20% retention) remains in place. Personal liability for abortive costs under Rule 56.7 continues but is now backed by the alternative insurance.
- If no alternative insurance is procured and the member continues uninsured:** The member bears **full personal liability** for any abortive costs. The Institution shall report the lapse to the Chief Adjudicator for possible mentoring or suspension from future SRT appointments.
- If the SRT determination is delivered on time and is not quashed:** The member earns the professional fee (less the cost of alternative insurance, if any). The SRT QAR is released after the 42-day judicial review window.

•**If the SRT fails to deliver within 90 days:** Abatement occurs. The full fee is refunded. The member remains personally liable for abortive costs. The alternative insurance (if procured) is the primary source of satisfaction.

7. Relationship with Gazette Notices 11 and 12 (4 May 2026)

- This TPD does not alter the minimum coverage requirements or the annual filing deadline.
 - Lapse of insurance after appointment does **not** automatically trigger suspension from the Senior Review Pool for the **current** proceedings, but the member shall be suspended from **new** SRT appointments until valid coverage is restored and verified.
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8. Documentation

- All notifications, consents, and insurance procurement records shall be filed in the ACDS case file.
- The final SRT determination shall include a brief note that an insurance lapse occurred and was resolved (or not) under this TPD, without disclosing sensitive personal or financial information.
 - | **Module reference:** M3-S3, M11-S4

This TPD is issued under the authority of the Chief Adjudicator and shall be published in the AITAR Digital Gazette.

Issue by:

Isaac Aluochier S.Arb, S.Adj, CPM
Chief Adjudicator and President of Independent
Tribunals
Aluochier Dispute Resolution
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