



New South Wales

# Professional Standards Regulation 1998

under the

Professional Standards Act 1994

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Professional Standards Act 1994*.

JEFFREY SHAW, Q.C., M.L.C.,

Attorney General

## Explanatory note

The *Professional Standards Regulation 1995* currently requires a fee of \$5,000 to accompany an application made by an **occupational association** (within the meaning of the *Professional Standards Act 1994*) for the Professional Standards Council's approval of a scheme prepared under section 7 of that Act for the purpose of limiting the occupational liability of any members of the association. That Regulation also requires those associations to pay an annual fee calculated at the rate of \$10 for each member who is subject to such a scheme in force under the Act. However, the application fee is offset against the first annual fee.

This Regulation repeals and remakes that Regulation. The new Regulation:

- reduces the application fee to \$2,000 in relation to schemes intended to replace those about to expire, and
- introduces a fee (also \$5,000 for an application for the Professional Standards Council's approval of an amendment to, or the revocation of, a scheme, and
- increases the annual fee payable by an occupational association to \$40 or \$75 per member, depending on whether or not all members of the particular association are subject to the scheme, and

## 1998 No 262

Professional Standards Regulation 1998

Explanatory note

---

- introduces a minimum annual fee of \$2,500, and
- abolishes the offset of the application fee against the first annual fee, and
- provides for the charging of interest on overdue annual fees, and
- provides for the discretionary remission of part or all of the new application fees and interest.

This Regulation is made under the *Professional Standards Act 1994* and, in particular, under section 53 (the general regulation-making power).

## Contents

---

	Page
<b>Part 1 Preliminary</b>	
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Notes	3
<b>Part 2 Fees and charges</b>	
5 Application fee for approval relating to occupational liability schemes	4
6 Amount of annual fee	4
7 Payment of annual fee	5
8 Interest on overdue annual fee	5
9 Remission of amounts payable	5
<b>Part 3 Miscellaneous</b>	
10 Repeal	6
11 Transitional	6

---

---

## Professional Standards Regulation 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Professional Standards Regulation 1998*.

#### 2 Commencement

This Regulation commences on 22 May 1998.

#### 3 Definitions

In this Regulation:

*annual fee* means the annual fee referred to in section 53 (2) (b) of the Act.

*annual fee period*, in relation to a scheme, means each period of 12 months beginning on the date on which the scheme commences and on each anniversary of that date.

*the Act* means the *Professional Standards Act 1994*.

#### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

**1998 No 262**

Clause 5 Professional Standards Regulation 1998

Part 2 Fees and charges

---

## **Part 2 Fees and charges**

### **5 Application fee for approval relating to occupational liability schemes**

- (1) An application by an occupational association for the approval of the Council of:
  - (a) a scheme prepared under section 7 of the Act, or
  - (b) an amendment to, or the revocation of, such a scheme,must be accompanied by a fee of \$5,000.
- (2) However, if the application is for the approval of the Council of a scheme prepared solely to replace a scheme that is to cease by effluxion of time to apply to the members of the relevant occupational association (and the application is made before the scheme so ceases to apply), the fee that must accompany the application is \$2,000.
- (3) Subclause (2) applies whether or not the scheme for which approval is sought differs in any way from the scheme that it is intended to replace.

### **6 Amount of annual fee**

- (1) The annual fee to be paid to the Council by an occupational association any of whose members are subject to a scheme in force under the Act is the amount calculated at the following rates for each person to whom the scheme applies who is a member of the association at any time during the relevant annual fee period
  - (a) \$40, in the case of a scheme that applies to all persons within the association or to a specified class or classes of persons within the association (other than the class of persons consisting of those persons within the association who elect to have the scheme apply to them),
  - (b) \$75, in the case of a scheme that applies only to the class of persons consisting of those persons within the association who elect to have the scheme apply to them.
- (2) However, the minimum annual fee to be paid is \$2,500.

**7 Payment of annual fee**

- (1) The annual fee must be paid not later than at the end of the first quarter of the annual fee period concerned.
- (2) If for any reason a scheme becomes applicable to an additional member of the occupational association during the annual fee period, the appropriate payment under clause 6 (1) (a) or (b) must be made in respect of the additional member at the end of the quarter in which the scheme became applicable to that member.
- (3) Subclause (2) applies only if the annual fee payable by the association, calculated in accordance with clause 6 (1):
  - (a) was \$2,500 or more before the addition of that member, or
  - (b) would exceed \$2,500 because of the addition of that member.

**8 Interest on overdue annual fee**

If any amount of the annual fee (including any payment required under clause 7 (2)) is not paid within 30 days after it is due, simple interest at the rate of 0.05% per day is payable to the Council on the outstanding balance until that balance is paid.

**9 Remission of amounts payable**

The Council may, if it considers that there are special reasons for doing so in a particular case, remit the whole or any part of either or both of the following:

- (a) the fee payable under clause 5 (1)(b) for an application for the approval of the Council of an amendment to, or the revocation of, a scheme,
- (b) any interest payable under clause 8.

## 1998 No 262

Clause 10 Professional Standards Regulation 1998

Part 3 Miscellaneous

---

### Part 3 Miscellaneous

#### 10 Repeal

- (1) The *Professional Standards Regulation 1995* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Professional Standards Regulation 1995*, had effect under (or was done for the purposes of) that Regulation continues to have effect under (or is taken to have been done for the purposes of) this Regulation.

#### 11 Transitional

- (1) Clause 6 (1) does not apply to or in respect of an occupational association any of whose members are subject to:
  - (a) a scheme in force under the Act on the commencement of this Regulation, or
  - (b) a scheme that comes into force under the Act as a result of an application made (under section 7 (2) or (3) of the Act) before the commencement of this Regulation,until the first anniversary, after the commencement of this Regulation, of the date on which the scheme concerned commenced.
- (2) Until that first anniversary, clause 5 (1) of the *Professional Standards Regulation 1995*, as in force immediately before the repeal of that Regulation, applies to and in respect of the occupational association concerned.
- (3) However, clause (1) does apply, on and from the commencement of this regulation, in respect of any additional member of the occupational association to which the relevant scheme becomes applicable (as referred to in clause 7).