



New South Wales

# Professional Standards Regulation 2019

under the

Professional Standards Act 1994

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

KEVIN ANDERSON, MP  
Minister for Better Regulation and Innovation

## Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Professional Standards Regulation 2014*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following:

- (a) the fees and charges payable in respect of occupational liability schemes,
- (b) the statement required to be included in documents given to clients by persons whose occupational liability is limited.

This Regulation is made under the *Professional Standards Act 1994*, including sections 33 (3) and 53 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

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## Professional Standards Regulation 2019

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### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Professional Standards Regulation 2019*.

#### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

**Note.** This Regulation repeals and replaces the *Professional Standards Regulation 2014*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) 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*.

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Fees and charges

### 4 Application fee for approval relating to occupational liability schemes

An application by an occupational association for Council approval must be accompanied by a fee of \$5,000 for each jurisdiction:

- (a) in which it is intended that the scheme will operate—in the case of an application for the approval of a scheme prepared under section 7 of the Act or for any amendment to an existing scheme that will result in the scheme operating in a greater number of jurisdictions, or
- (b) in which the scheme operates—in the case of an application for the revocation of an existing scheme or an amendment to an existing scheme (other than an amendment referred to in paragraph (a)).

### 5 Amount of annual fee

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 (being a scheme that applies to all persons within the association or to a specified class or classes of persons within the association) is \$50 for each person to whom the scheme applies who is a member of the association at any time during the relevant annual fee period.

### 6 Payment of annual fee

- (1) The annual fee must be paid:
  - (a) if the relevant scheme commences during the period of 3 months ending on 31 March in any year—not later than 31 March in each year, or
  - (b) if the relevant scheme commences during the period of 3 months ending on 30 June in any year—not later than 30 June in each year, or
  - (c) if the relevant scheme commences during the period of 3 months ending on 30 September in any year—not later than 30 September in each year, or
  - (d) if the relevant scheme commences during the period of 3 months ending on 31 December in any year—not later than 31 January of each following year.
- (2) If for any reason a scheme becomes applicable to an additional member of the occupational association during the annual fee period, the payment under clause 5 must be made in respect of the additional member:
  - (a) if the scheme becomes applicable to that member during the period of 3 months ending on 31 March—not later than 31 March, or
  - (b) if the scheme becomes applicable to that member during the period of 3 months ending on 30 June—not later than 30 June, or
  - (c) if the scheme becomes applicable to that member during the period of 3 months ending on 30 September—not later than 30 September, or
  - (d) if the scheme becomes applicable to that member during the period of 3 months ending on 31 December—not later than 31 January of the following year.

### 7 Interest on overdue annual fee

If any amount of the annual fee (including any payment required under clause 6 (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.

**8 Circumstances in which fees and charges not payable**

- (1) The Council may, if it considers that there are special reasons for doing so in a particular case, determine that the whole or any part of any fee or interest payable under this Regulation is not payable.
- (2) The Council may delegate any of its functions under subclause (1) to the Executive Officer of the Council.
- (3) The maximum amount that the Executive Officer of the Council may determine is not payable in any particular case under such a delegation is \$250.

## **Part 3 Miscellaneous**

### **9 Notification of limitation of liability**

- (1) For the purposes of section 33 (3) of the Act, the following form of statement is prescribed:  
Liability limited by a scheme approved under Professional Standards Legislation.
- (2) The statement must be printed in a size not less than that of Times New Roman 8 point font.

### **10 Repeal and savings**

- (1) The *Professional Standards Regulation 2014* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Professional Standards Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.