

CONSULTING SURVEYORS NATIONAL

# PROFESSIONAL STANDARDS SCHEME

*Improving standards. Reducing risk.*



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# INTRODUCING THE SCHEME

## What is the Professional Standards Scheme?

The Professional Standards Scheme (**the Scheme**) is a legal instrument, established under the *Professional Standards Act 1994* (**the Act**) and approved by the Professional Standards Councils.

The statutory objectives of the Scheme are reciprocal in nature:

- It binds Consulting Surveyors National (as the occupational association for the surveying profession in Australia) to monitor, enforce and improve the professional standards of its Members, and protect consumers of professional services; and
- Serves to cap the civil liability or damages the Consulting Surveyors National Scheme participants may be required to pay if a Court upholds a claim against them.

## **How does the Scheme operate?**

In principle, if proceedings are brought against a Scheme participant relating to occupational liability for damages arising from a single cause of action, and the Scheme participant is able to show that:

- a) they are a Member of Consulting Surveyors National and participant in the Scheme at the time the cause of action arose; and
- b) they have the requisite professional indemnity insurance cover insuring against occupational liability to which the cause of action relates; and
- c) The amount payable under the insurance policy is no less than the amount of the relevant liability cap specified in the Scheme,

the Court, in awarding damages, will limit those damages to the relevant liability cap specified in the Scheme.

## **How is the Scheme different to Professional Indemnity Insurance?**

The Scheme is not an insurance product and does not affect the requirement to obtain insurance, as applicable. However, Scheme participants who have insurance coverage equal to an amount not less than the applicable liability cap may limit their civil liability in the event of a relevant claim.

## **To whom does the Scheme apply?**

Subject to meeting all Scheme requirements, the Scheme applies to:

- a) Individual Members of Consulting Surveyors National engaging in private practice who are not excluded or exempted from the Scheme;
- b) Corporate Members of Consulting Surveyors National who are not excluded or exempted from the Scheme;
- c) Officers or employees of a Consulting Surveying Practice that are Members of Consulting Surveyors National and who have not been excluded or exempted from the Scheme;
- d) All persons to whom the Scheme applied when the act or omission giving rise to the relevant cause of action arose.

*(Ss. 17-20.A Professional Standards Act 1994)*



## What is covered by the Scheme?

The Scheme provides for limitation of occupational liability arising from a single cause of action. The Act defines “Occupational liability” as meaning civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of an occupational association acting in the performance of their occupation.

The Scheme does not provide absolute protection from occupational liability due to the operation of section 5 of the Act which specifically excludes coverage of liability arising from:

- the death of, or personal injury to, a person;
- a breach of trust; or
- fraud or dishonesty.

## Liability Caps

The liability cap (or monetary ceiling) applicable for the purposes of limitation of liability under the Scheme at the Relevant Time is to be determined according to the following table:

CLASS	DESCRIPTION	MONETARY CEILING (MAXIMUM AMOUNT OF LIABILITY)
1	A Participating Member who is a Corporate Member or an Individual Member who is a principal, partner, officer or employee of a Consulting Surveying Practice that generated Annual Fee Income for the Financial Year immediately preceding of up to and including \$2 million.	\$2 million
2	A Participating Member who is a Corporate Member or an Individual Member who is a principal, partner, officer or employee of a Consulting Surveying Practice that generated Annual Fee Income for the Financial Year immediately preceding of greater than \$2 million and up to and including \$5 million.	\$5 million
3	A Participating Member who is a Corporate Member or an Individual Member who is a principal, partner, officer or employee of a Consulting Surveying Practice that generated Annual Fee Income for the Financial Year immediately preceding of greater than \$5 million.	\$10 million

## Can I tailor my Scheme participation to suit my business and risk management needs?

The Act bestows upon Consulting Surveyors National a discretionary authority, on application by a participating surveying practice, to specify a higher liability cap than would otherwise apply under the Scheme in respect of all cases, a class of case, or a specified case.

We call this a Discretionary Higher Cap.

## When could a Discretionary Higher Cap benefit my practice?

In deciding whether or not a Discretionary Higher Cap is appropriate for your practice, consideration might be given to the circumstances, business and client requirements of the survey practice. If you answer yes to any of the questions below, you should contact Consulting Surveyors Admin as the Scheme Administrator for assistance on 0412 453 290.

- Do you tender, or wish to tender for Government contracts?

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- Are there prospective clients who might be willing to retain your services if you have a higher liability cap?

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- Would implementing a higher liability cap serve as a positive risk management strategy without limiting your ability to:
  - Attract different clients; or
  - Act for existing clients on larger matters?

## Mutual Recognition

Consulting Surveyors National and the Professional Standards Councils recognise that the provision of professional services transcends state boundaries, particularly in the current fast changing survey practice landscape. For the first time, the Scheme Instrument provides for mutual recognition across Australia.

Approval of the Scheme under Professional Standards Legislation of another state or territory is designed to have the effect of limiting the liability of any person to whom the Scheme applied at the Relevant Time (as defined in the Scheme instrument) at which the relevant act or omission occurred and where the act or omission occurred in the state or territory that has recognised the Scheme.

If your office is part of a national practice, or if your survey practice engages in professional practice interstate, specific consideration should be given to the effect of the mutual recognition provisions of all relevant legislation to ensure that the Scheme applies to all parts of your practice.





# ADMINISTERING THE SCHEME

## Requirement to make an application

In order to administer the Scheme so as to meet all of the Professional Standards Councils' requirements, and in accordance with the Act, all Individual and Corporate Members of Consulting Surveyors National are required to either apply for participation in, or exemption from, the Scheme. **Consulting Surveyors Admin** administers this participation on behalf of Consulting Surveyors National and exemption process through the relevant survey practice.



## Applications to be made by the Scheme Co-ordinator

For administrative purposes, Consulting Surveyors Admin requires an Individual Member of each survey practice to be the responsible Scheme Co-ordinator and make applications on behalf of the survey practice and its staff.

The Individual Member must ensure that they are authorised to apply for either participation in, or exemption from, the Scheme for all staff in their survey practice after discussion with the staff about the Scheme.

## Applications for participation in the Scheme

### Corporate Members

For a survey practice to gain the full benefit of the Scheme and the limitation of liability, all those practitioners that have a statutory authority to sign within the survey practice will need to be Members of Consulting Surveyors National and participate in the Scheme.

### Individual Members

If you are an individual that has a statutory authority to sign within the survey practice and wish to enjoy the benefit of limiting your occupational liability under the Act by participating in the Scheme, you must be an Individual Member of Consulting Surveyors National.

## Applications for exemption from the Scheme

For those survey practices that do not wish to participate in the Scheme, you must choose to opt out when signing up to become a member of Consulting Surveyors National. The Professional Standards Councils requires Consulting Surveyors National to maintain a register of its Members who have been granted exemption from the Scheme.

Please note that an exemption will be recorded as effective for the duration of the Scheme year or until a subsequent application for participation is made.

## Participation Fees

SIZE OF PRACTICING FIRM	ANNUAL FEE
Up to five (5) employees	\$750
Up to ten (10) employees	\$850
Up to twenty (20) employees	\$1,050
Up to forty (40) employees	\$1,350
More than forty (40) employees	\$1,950

Note: All fees include GST.



# COMPLYING WITH THE SCHEME

To maintain our accreditation with the Professional Standards Councils, Consulting Surveyors National must demonstrate that it adequately monitors, regulates and improves the professional standards of its Members.

## Disclosure Notification Requirements

The *Professional Standards Act 1994* and the *Professional Standards Regulation 2019* require Scheme participants to disclose their limited liability status. The following disclosure notification is prescribed:

**Liability limited by a scheme approved under Professional Standards Legislation.**

The statement must be printed in a size not less than that of Times New Roman 8 point font.

The Professional Standards Councils have directed that the disclosure notification must appear on all materials that are or could be given to current or prospective clients by Scheme participants to promote themselves or their occupation.

### Disclosure notification should appear on:

- letterhead and letters signed by the survey practice or on its behalf
- emails
- fax cover sheets
- documentation, including written advice, memorandum of fees and invoices, and other documents produced for clients which are not accompanied by a covering letter containing the disclosure statement
- newsletters and other publications
- websites

### Consulting Surveyors National Professional Standards Scheme Logo

Consulting Surveyors National has developed its own Professional Standards Scheme logo which you are welcome to use on your letterhead and other law practice documentation whilst participating in the Scheme. Please note that this logo is optional and does not replace the disclosure notification.



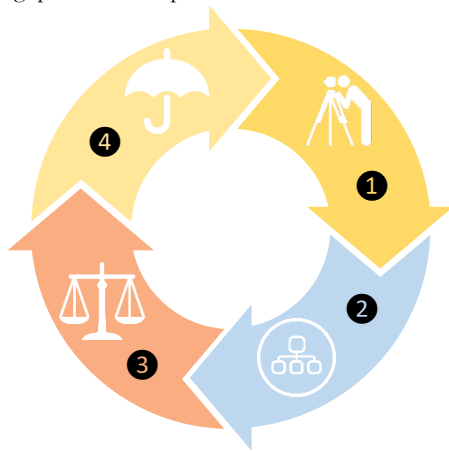
## Professional Indemnity Insurance Requirements

Professional Standards Legislation and the Scheme require all participants to have professional indemnity insurance to an amount no less than the applicable liability cap (monetary ceiling) set out in the Scheme Instrument. This level of insurance must be maintained throughout the Scheme Year.

## Risk Management Requirements

Scheme participants are expected to demonstrate their commitment to high professional standards by implementing policies and processes within their surveying practices to:

- 1 **Identify the risks** in providing surveying services.
- 2 **Implement strategies** to mitigate those risks.
- 3 **Ensure compliance** with the survey profession legislation.
- 4 **Reduce exposure** to claims and complaints.



As part of this process, Scheme participants will be required to attend specific risk management training conducted by approved training provider **Consulting Surveyors Campus**.



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For further information please visit  
<http://www.csnpss.com.au>