

This scheme commenced on 1 June 2001 and ceases on 31 May 2006.

It includes an amendment made to the originally approved scheme.

PROFESSIONAL SURVEYORS SCHEME

Professional Standards Act 1994 (NSW)

PREAMBLE

OCCUPATIONAL ASSOCIATION

The Institution of Surveyors NSW Div., the Association of Consulting Surveyors NSW Inc. and the Australian Consulting Surveyors Insurance Society Limited have established The Professional Surveyors Occupational Association of NSW Inc (the Association), to cover the surveying and related activities of professional surveyors. The address of the Association is Level 3, 363 Pitt Street Sydney NSW.

The Association was originally formed under the Association Incorporation Act 1984 with the object to establish a Professional Surveyors Professional Standards Scheme under the Professional Standards Act 1994 (the Act) for professional surveyors covering both individuals and firm, and thereafter to administer and manage the scheme and implement programs for risk management and public protection, whilst monitoring claims.

Since its establishment the Association has also taken on the role of an accrediting body for private certifiers under the NSW Environmental Planning and Assessment Act 1979. Individuals applying for accreditation are not required to be members of the Association.

In the future it is expected that the Association may take on further responsibilities related to activities of professional surveyors.

The foundation bodies are:

The Institution of Surveyors NSW Incorporated (ACE 000 001 329). The Institute of Institution of Surveyors NSW Inc (IS NSW) is the recognised professional body for surveyors in the state of New South Wales. The general objective of the IS NSW is the promotion of the science, practice, status and study of the discipline of surveying, in its broadest sense, for the benefit of society. It meets a wide range of members' needs including the publication of a monthly journal, the mediation of disputes between members and the public, and the operation of a Continuing Professional Development program. IS NSW has approximately 1300 members including students, surveying associates and surveying technicians, as well as professional surveyors from all disciplines and industry sectors.

The Association of Consulting Surveyors NSW Incorporated (ACN Y02879-15). The Association of Consulting Surveyors NSW Inc (ACS NSW) is a professional

association which represents the interests of consulting surveyors in private practice. Its major objective is the advancement of education in technical skills, profession and practice of surveying, to meet the needs and aspirations of the community. ACS NSW has 190 member firms, approximately two thirds of surveying practices in NSW. Whilst some are sole practitioners, the majority of firms are employers, ranging from small practices to multi-disciplinary organisations employing more than 20 people.

The Australian Consulting Surveyors Insurance Society Limited (ACN 000 599 826). The Australian Consulting Surveyors Insurance Society Limited (ACSIS) was formed in 1985 with the aim of providing a substantial self-administered professional indemnity insurance scheme for the surveying profession across Australia. The scheme functions on the basis of arranging insurance through a master policy and funds an additional level of excess, which tends to insulate the scheme from the fluctuations of the insurance market. ACSIS is committed to a comprehensive policy of providing loss prevention / risk management education to members through seminars, publications and videos.

NATURE OF THE SCHEME

A scheme operates for the purpose of improving the occupational standards of professionals and others and to protect the consumers of their services. It also limits the civil liability of persons covered by the scheme.

The liability limited by the scheme includes, to the extent permitted by the Act, all civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of the Association or to any person to whom the scheme applies in acting in the performance of his or her occupation. The scheme does not apply to liability for damages arising from any matter to which the Act does not apply, including, but not limited to, liability for damages arising from death or personal injury to a person, a breach of trust, fraud or dishonesty.

The schemes does not affect damages awarded below \$1 million. Where damages awarded are above \$1 million, the scheme limits liability at either \$1 million, \$2 million or \$5 million depending on the liability limit applicable. These three liability limits are called classes and are specified in a table in the scheme. The limit of liability is dependent on the firm's annual gross fee income however a higher but not lower class can be selected. Based on information supplied, the Association designates each firm to a particular class depending on the amount of the annual gross fees disclosed or a higher class if selected. If the gross fee income disclosed to the Association is inaccurate and the firm know or should have known of the correct position at that time, then the limit of liability for persons in that firm will be \$5 million.

STANDARDS OF INSURANCE

Members of the Association covered by the scheme are required to maintain a current professional indemnity insurance policy that meets the standards specified from time-to-time by the Association. The amount payable under the insurance policy in respect of occupational

liability is to be not less than the person's limitation of liability. In addition, members are to maintain sufficient assets to cover any deductible applicable under the insurance policy.

CLAIMS MONITORING

The Association will regularly review and monitor liability claims. An objective of claims monitoring is to identify areas for improvement in order to reduce claims against scheme members. A Claims Monitoring Committee will be established and ACSIS will provide statistics identifying trends which can be used to evaluate the success of the overall risk management strategy and assist with member education. Other principal insurers will be encouraged to provide similar information.

RISK MANAGEMENT

The Association administers strategies to maintain and improve occupational standards and to minimise risk. As a primary strategy, the Association maintains membership entry requirements. Risk management strategies include the requirement to meet standards of continuous professional development (CPD) and abide by a code of ethics. Members are required to attain CPD in 'risk management'. The foundation bodies publish material on risk management issues and business practices.

Members are required to have professional indemnity insurance. The Association undertakes claims monitoring to identify trends, to evaluate and improve strategies, and to assist member education and to reduce risk. The Association encourages member firms to implement a program of quality assurance.

Members are required to certify annually that they have complied with risk management strategy requirements and are randomly audited to check their compliance with the scheme.

Members are subject to the Association's complaints and discipline system.

COMPLAINTS AND DISCIPLINE MATTERS

Members to whom the scheme applies are subject to the complaints and discipline system administered by the Association under its Disciplinary Regulations. All members of the Association must comply with the Code of Ethics of the Association.

SCHEME ADMINISTRATION

Administration of the scheme will be undertaken by the Professional Surveyors Occupational Association NSW Inc. The Association will maintain a Register of members and their classes.

SCHEME DURATION

The scheme remains in force for a period of 5 years from its commencement unless it is revoked, extended or ceases in accordance with section 32 of the Act.

THE PROFESSIONAL SURVEYORS SCHEME

1. Occupational Association

1.1 The Professional Surveyors Scheme (the scheme) is a scheme under the Professional Standards Act 1994 (NSW) (the Act) of the Professional Surveyors Occupational Association of New South Wales Inc. (the Association), Level 3, 363 Pitt Street Sydney NSW

2. Persons to Whom the Scheme Applies

1.1 The scheme applies to all members of the Association. The scheme also applies to other persons by virtue of sections 18, 19 and 20 of the Act.

3. Limitation of Liability

1.1 A person to whom the scheme applies and against whom a cause of action relating to occupational liability is brought is not liable in damages in relation to that cause of action above the maximum amount of liability applicable to the person within the class of persons specified in the scheme where the person is able to satisfy the court that the person has the benefit of an insurance policy insuring the person against that occupational liability and under which the amount payable in respect of the occupational liability relating to that cause of action is not less than the specified amount of liability in relation to the person at the time at which the act or omission giving rise to the cause of action occurred.

2.2 The maximum amount of liability of a person is the amount specified in clause 3.3 of the scheme.

3.3 Classes of Persons/Maximum Amount of Liability

Class	Description	Maximum amount of liability
1	All persons to whom the scheme applies as specified in clause 2.1 in a practice for which the total annual gross fee income for professional services is less than \$5 million, unless the person has a higher maximum amount of liability by virtue of Class 4	(a) \$1 million
2	All persons to whom the scheme applies as specified in clause 2.1 in a practice for which the total annual gross fee income for professional services is between \$5 million and less than \$10 million unless the person has a higher maximum amount of liability by virtue of Class 4	(b) \$2 million
3	All persons to whom the scheme applies as specified in clause 2.1 in a practice for which the	(c) \$5 million

	total annual gross fee income for professional services is \$10 million or greater.	
4	All persons in a practice where the practice in classes 1 - 2, as the case may be, selects and specifies a maximum amount of liability greater than that specified for the class.	(d) The selected maximum amount of liability greater than that specified for the class but not exceeding a maximum amount of \$5 million.

4.4 For the purposes of the scheme, a member is assigned, in accordance with clause 3.3, by the Association to a class for the *relevant scheme year*. The assignment is made and specified at the beginning of each scheme year. Where a practice fails to provide bona fide information for the assignment, Class 3 is deemed to apply.

3.4.1 In determining the total annual gross fee income for the purposes of clause 3.3, the financial year ended immediately prior to the *relevant scheme year* will apply. However, where there was no such income, a bona fide estimate specified by the practice of total annual gross fee income for the financial year ending during the *relevant scheme year* will apply, otherwise Class 3 is deemed to apply.

3.4.2 The *relevant scheme year* is the relevant *annual fee period* in accordance with the Professional Standards Regulation 1998. *Annual fee period*, in relation to the scheme, means each period of 12 months beginning on the date on which the scheme commences and on each anniversary of that date.

4. Commencement of the Scheme

The scheme commences on 1 June 2001.