



INSTITUTE OF  
PUBLIC  
ACCOUNTANTS®

Public  
Consultation  
Document

## PUBLIC CONSULTATION DOCUMENT

### PROFESSIONAL STANDARDS SCHEME

#### ABOUT THE PROPOSED SCHEME

##### A. Occupational Association

###### i. Who is the IPA

The Institute of Public Accountants is an occupational association of professional accountants. The IPA has a passion for small business.

More than 75 per cent of our members are either servicing small business or are small businesses in their own right. We recognise the vital contribution that small business makes to the economy globally. As trusted advisers, IPA members play a pivotal role in the lives of their small business clients and are in an ideal position to support the productivity, growth and prosperity of small business; thus making a genuine economic contribution.

IPA's commitment to members includes the delivery of quality continual professional development and education pathways, ensuring members maintain currency of knowledge and relevance in an ever-changing and competitive market. This is supported by a range of communications including technical newsletters and updates; major conferences and networking opportunities; and, an award winning online technical support platform.

###### ii. Who are the IPA public practice members

An IPA public practice member is an IPA member who holds a Professional Practicing Certificate (**PPC**) issued by the IPA .

Anyone who offers professional accounting and/or related services to the public is required to hold a PPC. A PPC is required for a Sole Trader, Director, Principal, Partner or Shareholder in an accounting or related practice.

The benefits of being an IPA public practice member include:

- **Find an Accountant:** a useful tool to help you promote your business. *Find an Accountant* provides the general public and potential new clients the ability to easily search for IPA accountants in their local area, giving them instant access to your

details.

- **IPA Insure:** our in-house insurance solution.
- **Templates and Checklists:** we provide a range of templates and checklists to help your practice, including small business and individual tax checklists, engagement letters and financial advice referral forms.
- **Continuing Professional Development (CPD):** we're known for our excellent range of CPD events.
- **Professional Assist:** Our unique 24/7 online technical helpdesk gives you four free credits per year that connects you to specialist advisors, providing access to an extensive information centre that helps you answer a range of tricky questions you might face.
- **Technical and industry updates:** Receive our bi-monthly magazine *Public Accountant*, our fortnightly newsletter *Technical Advantage*, our Digital Hub ([www.pubacct.org.au](http://www.pubacct.org.au)) as well as regular communications via our various channels including email, social media and our YouTube channel.
- **Professional Practice Program:** we've designed the Practice Program to assist you in establishing and running your business. The compulsory two-day program focuses on both technical and non-technical skills such as practice structures, strategic planning, marketing, financing and risk management.
- **Networking:** we host social and networking events across Australia. Events vary from discussion groups to social drinks, cocktail parties or formal dinners with keynote speakers - allowing you to claim important CPD points.

The IPA PPC application process is outlined at:

<https://www.publicaccountants.org.au/membership/ppc/become-a-ppc-holder>, and this page contains a link to the IPA PPC application form.

### iii. What types of work do IPA public practice members carry out

IPA members generally carry out accounting services to the public, which include, but is not limited to, one or more of the following:

- (a) Accounting
- (b) Provision of tax advice and tax agent/BAS agent services
- (c) Auditing / SMSF Auditing
- (d) Business or management consulting
- (e) Bookkeeping
- (f) Mortgage broking
- (g) Compilation of Financial reports
- (h) Company Secretarial
- (i) Superannuation
- (j) Insurance
- (k) Information Technology (Accounting/audit Software)

- (l) Insolvency and bankruptcy
- (m) Debt Collection
- (n) Forensic Accounting
- (o) Risk Management
- (p) Restructuring advice
- (q) SMSF advice
- (r) Financial advice
- (s) Business advice

## **B. Professional Standards Legislation**

### **i. Background**

The IPA Professional Standards Scheme (**Scheme**) is a legal instrument that binds professional associations to monitor, enforce, regulate and improve the professional standards of members. It identifies the IPA and IPA members as recognised professionals who demonstrate a commitment to regulation under the professional standards legislation.

One of the key advantages of operating under a Scheme is that it identifies the IPA and its members as recognised professionals. This is particularly important in a competitive market because it's increasingly difficult for consumers and governments to identify a professional from the growing field of people claiming to be a professional.

The Scheme also protects IPA PPC holders from significant financial loss by enforcing a \$2 million monetary cap that limits the amount of damages a member (or underwriter) has to pay in wide variety of circumstances. Member protection offered under the Scheme is crucial in an increasingly litigious environment and will provide PPC holders with a level of comfort.

The Scheme is also a marketing tool for IPA PPC holders as it demonstrates IPA members are truly professional as a Scheme is only available to association members that uphold the highest professional and ethical standards. This flows through to better consumer confidence as consumers will be aware an IPA PPC holder is operating to the highest professional and ethical standards.

### **ii. What is a Professional Standards Scheme?**

Professional Standards Schemes (formerly known as Cover of Excellence® schemes) are legal instruments that bind associations to monitor, enforce and improve the professional standards of their members, and protect consumers of professional services.

These associations have been approved by the Professional Standards Councils to represent professionals in a particular occupation who are members of the association for the purpose of professional standards legislation.

In return for these commitments, Professional Standards Schemes cap the civil liability or damages that professionals who take part in an association's scheme may be required to pay if a court upholds a claim against them.

iii. **Quick facts about the IPA scheme?**

Question	Answer
How long has IPA operated a Scheme	Since the early 2000's
Scheme Management resources/personnel of IPA	Andrew Best - Manager, Technical and Policy Stella Baek - Membership Regulatory Auditor
Where does the Scheme operate?	New South Wales and the Australian Capital Territory, Victoria, Tasmania, South Australia, Western Australia, the Northern Territory, and Queensland
Who will the IPA scheme be available to?	IPA members who hold a PPC issued by the IPA. The IPA scheme will include limited AFS licence holders and representatives of limited AFS licence holders.
Who will the IPA scheme exclude?	The IPA scheme will exclude all representative of full AFS licence holders, including authorised representatives and employees of full AFS licence holders.
When will the Scheme apply?	The IPA intends for the scheme to commence on 1 July 2018
Does the Scheme apply to all accountants and financial planners?	No. It does not apply to any full AFS licence holders which includes their representatives (i.e. authorised representatives and employees). It does apply to limited AFS licence holders and representatives of limited AFS licence holders.

iv. **Who is included and excluded in the IPA scheme**

The IPA is an occupational association for accountants, and the IPA scheme is therefore intended for accountants providing accounting services (and not for financial advisers).

The IPA does recognise that accountants do provide a limited range of financial services (i.e. financial product advice) relevant to self-managed superannuation funds (SMSF), and that such advice is provided under a limited AFS licence.

Accordingly, limited AFS licence holders are to be included in the IPA scheme.

Full AFS licence holder(s), and their representatives<sup>1</sup>, are to be **excluded** from the IPA scheme.

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<sup>1</sup> The term representative is relevantly defined in section 910A of the *Corporations Act* 2001 (Cth) as:

Where a member is a limited licence holder of one entity (**Entity A**), and also a representative (i.e. employee or director) of a full AFS licence holder of another entity (**Entity B**), that member will be excluded from the IPA scheme by reason of their relationship with Entity B.

If you have any doubts about the types of members and claims covered under the IPA scheme, we recommend that you seek independent legal advice.

**v. The likely proportion and numbers of members to whom the scheme will apply**

State	Number of members	Number of members holding a PPC
NSW	5,041	1,501
VIC	2,848	1,082
QLD	1,950	819
WA	1,134	367
SA	1,337	285
NT	94	30
TAS	309	63
ACT	211	38
<b>Total</b>	<b>12,924</b>	<b>4,185</b>

**vi. IPA qualification and track record in administering Scheme**

The IPA has operated a scheme successfully since the early 2000's.

The IPA is a well-established and respected peak representative body for accountants, with a key focus on the SME sector, and a passion for innovation. The IPA has existed for

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**representative of a person means:**

*(a) if the person is a financial services licensee:*

*(i) an authorised representative of the licensee; or*

*(ii) an employee or director of the licensee; or*

*(iii) an employee or director of a related body corporate of the licensee; or*

*(iv) any other person acting on behalf of the licensee*

close to a century, after first being formed in 1923 as the Institute of Factory and Cost Accountants.

The IPA has contributed significantly to the development of Australian accounting standards and broader corporate policy since its inception in 1923.

In 2011 under the stewardship of CEO Andrew Conway there was a name-change to the Institute of Public Accountants to more accurately reflect what the organisation's members wanted given accounting is now recognised globally and that in most parts of the world, 'Public Accountant' means a qualified accountant.

In 2015, the IPA amalgamated with the UK-based Institute of Financial Accountants offering mutually recognised membership designations into Europe. The IPA now has a membership of around 35,000 members and students and is truly a global accounting body. The IPA has three tiers of membership, Associate, Member and Fellow, with IPA members having a significant presence in the areas of small-medium enterprises (SMEs), taxation, SMSFs and superannuation, book-keeping, advisory services and general accounting.

The IPA represents over 35,000 qualified accountants throughout Australia and overseas, and is a member of the Joint Accounting Bodies, which is an entity that brings together the Presidents and CEOs of the CPA, CA ANZ and IPA to consider matters of interest to the profession as a whole. The IPA is a member of the International Federation of Accountants and is a strong contributor to the development of the accounting profession in Australia and the broader region, including representation on numerous Australian Government and bilateral committees and councils.

The IPA is recognised in Commonwealth and State law in Australia and our members are recognised by the Australian Government as Qualified Accountants, and have equal standing under Australian Securities and Investments Commission (ASIC) rulings.

In addition to IPA members being highly qualified, the IPA Program is unique as it is the only professional accounting body program that offers a full postgraduate degree upon completion of the Program. Our unique IPA Program has been designed in partnership with Deakin University to ensure that our members are equipped with robust and effective tools to ensure the services they provide to their clients are of the highest quality.

## **C. MORE ABOUT THE IPA SCHEME**

### **i. How is the scheme constituted?**

The scheme is constituted by a document known as the scheme instrument which sets out the details of the scheme's scope, jurisdiction, duration and limitation of liability.

The IPA Scheme Instrument is a 3-4 page document that explains to a court how the IPA Scheme works, who is included in the IPA Scheme and who remains eligible to continue to be in the IPA Scheme.

We request all members familiarise themselves with the Scheme Instrument as it dictates some of the member compliance requirements for the member to remain in the Scheme. Paying the annual PSC fee does not guarantee an IPA PPC holder remains in the Scheme. A court of law may rule a member is out of the Scheme if the member fails to comply with the ongoing Scheme requirements.

**ii. How does the scheme operate?**

To qualify for admission into the Scheme, the Professional Standards Councils (“PSC”) require the IPA to monitor, enforce, regulate and improve the professional standards of IPA PPC holders.

One of the key advantages of operating under a Scheme is that it identifies the IPA and its members as recognised professionals who demonstrate a commitment to regulation under the professional standards legislation. This is particularly important in a competitive market because it’s increasingly difficult for consumers and governments to identify a professional from the growing field of people claiming to be a professional.

In return for being part of a Scheme, IPA members have their occupational liability capped, in a wide variety of circumstances, if a court successfully upholds a professional indemnity (PI) claim against an IPA member.

To be part of the Scheme, an IPA PPC holder must:

- a) have insurance which complies with the standards determined in the IPA By-Laws;
- b) which insured the member against that occupational liability; and
- c) under which the amount payable in respect of the occupational liability in respect of that occupational liability is not less than the relevant monetary ceiling specified in the scheme.

**iii. Nature of the liability to be limited?**

The Scheme limits occupational liability only. Occupation liability is defined in the relevant legislation as (our emphasis added):

*civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted to be done by a member of an occupational association **acting in the performance of his or her occupation***

Therefore, the Scheme will only cover claims made against the member arising out of the conduct:

- a. of the provision of accounting services by the member to the public (including (but not limited to) services relating to taxation, auditing, business consulting, superannuation, bookkeeping and insurance); and

- b. that took place in Australia during the period in which the Scheme was in force.

The Scheme will not cover the following:

- c. Liability arising out of a breach of trust, fraud or dishonesty; and/or
- d. Liability for damages arising from death or personal injury.

The Scheme may not cover the following:

- e. Claims/liability arising under certain Commonwealth legislation including the Australian Consumer Law, ASIC Act, and the Corporations Act;
- f. Liability arising out of property damage and product liability;
- g. Directors and officers liability;
- h. Liability arising out of trading losses and insolvency (of the member entity); and/or
- i. Liability arising out of corporate and financial advisory services which requires a full Australian Financial Services Licence or an authority under such a Licence.

\*The above lists are in no way exhaustive. If you have any doubts about the types of claims which will be covered under the Scheme, we strongly recommend that you seek independent legal advice.

#### **iv. Can an IPA member opt out of the scheme?**

No person to whom the scheme applies may be exempted from the scheme other than a member who, on application to the IPA Board of Directors, is able to satisfy the Board that the member is also a participating member of another occupational association that is covered by a scheme limiting liability and has not opted out of that scheme.

#### **v. How will consumers know if an IPA member is covered by the Scheme?**

Members who participate in the scheme are required to disclose limited liability on stationery and business documentation.

The wording to be used is as follows:

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

The wording must be printed in a size not less than Times New Roman 8-point font, and must appear on all correspondence that are or could be given to current or prospective clients used to promote IPA PPC holders or the accounting profession. Examples include, but are not limited to:

- Letterhead and letters signed by the company or on its behalf;
- Fax cover sheets;
- Newsletters and other publications;
- Your website(s);
- Written advice, plans, drawings, specifications and any other client documents not accompanied by a separate document with the disclosure statement; and



- Memorandum of fees and invoices unaccompanied by a separate document with the disclosure statement.
- The statement does not need to appear on:
- Advertisements in print media, directory listings and similar forms of promotion;
- Business cards; and
- Social media networks, blogs, etc. that are accessed voluntarily by consumers, rather than being given, or caused to be given, by professionals to their clients or prospective clients.

Please be aware that failure to use the prescribed disclosure statement will breach the legislation. If an insurance claim is made, the Scheme could be challenged in court. Members may also be subject to fines.

**vi. How long does the Scheme operate for?**

The scheme will operate for a period of 5 years from the date of commencement.

## **D. BENEFITS OF A PROFESSIONAL STANDARDS SCHEME**

**i. How will consumers benefit from the Scheme? / How does limiting participant liability help consumers?**

One of the key advantages of operating under a Scheme is that it identifies the IPA and its members as recognised professionals. This is particularly important in a competitive market because it's increasingly difficult for consumers and governments to identify a professional from the growing field of people claiming to be a professional.

As recognised 'professionals' under the scheme, who demonstrate a commitment to regulation under the professional standards legislation, participating members ensure that the services which they provide to consumers are to the highest standard and quality.

Limited liability is only one aspect of a professional standards scheme. As recognised professionals who demonstrate a commitment to regulation under the professional standards legislation, participating members must adhere to the stringent requirements of maintaining a PPC with the IPA. The IPA monitors, enforces, regulates and improves the professional standards of members by ensuring member compliance with the scheme and the professional standards legislation.

Being a member of a profession means being governed by a code of ethics, and having a commitment to competence, integrity, morality, altruism, and the promotion of the public good within their expertise. Professionals are accountable to those they serve and to the public. The word "profession" means different things to different people, but it's meant to be an indicator of trust and expertise.

Consumers can therefore be confident when they engage a participating IPA member that they are engaging a professional, who is operating to the highest professional and ethical standards.

**ii. How does the Scheme enhance the professional standards of IPA members?**

The IPA imposes compliance obligations on members to ensure they operate to the highest professional and ethical standards. These include:

- Minimum standards of education as a pre-requisite for membership entry, and higher education standards for higher membership levels;
- Requiring members to comply with the IPA CPD requirements of 80 hours learning every 2 years;
- Requiring minimum standards of practical experience before an applicant can obtain a PPC;
- Communicating the findings of the IPA Assurance and Compliance Division's investigative work into member compliance for incorporation into CPD training programs;
- Requiring members (or applicants for membership), to declare that upon applying for membership or renewing membership, that:
  - they are a fit and proper person; and
  - they will comply with the IPA's rules and regulations.
- If an IPA member fails to comply with a professional or ethical requirement, the IPA Assurance and Compliance area will investigate, and if appropriate, refer the matter to the Disciplinary Tribunal for consideration and possible sanctions.
- The IPA continues to conduct regular review of its risks which are formalised in a risk register. The process is based on the concepts and principles of AS/NZS ISO 31000:2009 - Risk Management- Principles and Guidelines.

**iii. Is the Scheme professional indemnity insurance?**

No. But all members holding IPA PPC are required to have PI insurance. IPA By-Law 9.1.11 requires members to hold PI insurance that satisfies certain minimum criteria.

PI Insurance will fund damages and legal costs on behalf of an IPA PPC holder up to the Scheme cap.

Professional Standards Schemes cap the damages a court can award.

The IPA Professional Standards Scheme works in conjunction with the members' PI policy to ensure IPA PPC holders are adequately covered in the event that damages are awarded against the member.

**iv. Standards of Insurance and mandatory requirements**

Members must have a PI insurance policy with the amount payable not less than the monetary ceiling specified in the Scheme, which is currently \$1 million (proposed to be increased to **\$2 million in the new scheme**). The 'amount payable' is the maximum claim amount for each reinstatement of the member's PI policy.

The PI Insurance requirements are set out in By-Law 9 and the relevant membership policy. IPA membership policy BMC 2051 paragraph 11 states:

*All holders of a PPC must provide evidence of current Professional Indemnity (PI) Insurance which meets the terms and conditions prescribed in IPA By-Law 9.1.10 and 9.1.11, and include the provision of cover of an amount of \$1,000,000 for each and every claim in aggregate.*

To remain in the Scheme, members must ensure the services they offer to clients are actually listed in their PI insurance policy and the policy offers PI cover to the member for the services they provide. Each PI policy will be specific as to the types of services the cover provides. Members must read the policy and contact their broker/ underwriter if the policy does not cover all the services the member offers to clients.

Compliance with the IPA's insurance requirements is tested through three main mechanisms:

1. Before being issued a PPC, the member must provide the IPA a copy of their PI Insurance Certificate of Currency;
2. Members must make an annual declaration that they have maintained PI Insurance as required by the IPA; and
3. Every three to five years members with a PPC must have a PPQA Review, part of which requires the member providing a copy of their Certificate of Currency to the Reviewer.

#### **v. Compliance with Continuing Professional Development**

Pursuant to the IPA By-Laws all members must comply with the IPA's CPD requirements, which requires members to complete 80 hours learning every 2 years.

These requirements are set out in Pronouncement 7 Continuous Professional Development. Under the Pronouncement, the maximum amount of CPD hours permitted through relevant technical or professional reading is 25% of the total CPD hours in the relevant two year period.

The IPA's Professional Practice Quality Assurance reviews ensures members in professional practice are audited every 5 years. Any compliance issues detected are referred back to the member for rectification. This information is fed to Divisions to incorporation into the Divisions CPD training activities. 300 CPD audits are conducted each year and members are selected at random to ensure compliance with Pronouncement-7. Member compliance with Pronouncement-7 ensures members are at the forefront technically as well as able to effectively manage their professional practice.

#### **vi. Complaints and Discipline**

Participating Members are subject to the IPA's complaints and discipline system as detailed under the Constitution and By-Laws. These procedures may include the

imposition of sanctions and penalties. Investigations may be commenced as a result of a complaint received from any member of the public, from a fellow member, or the IPA of its own initiative.

Complaints against members are managed by the Assurance and Compliance area of the IPA. Member complaints can be managed administratively under Pronouncement-12, or through mediation, or referred to the Disciplinary Tribunal for a determination. Members have an appeals process available to them. Outcome statistics of investigations are supplied by the Assurance and Compliance area of the IPA to the IPA Board every quarter. These are uploaded to the IPA website and included in the IPA Annual Report.

#### **E. WHERE CAN I FIND MORE INFORMATION?**

- i. IPA Website: <https://www.publicaccountants.org.au>
- ii. PSC website: <https://www.psc.gov.au/professional-standards-schemes/>

#### **iii. Contact the IPA:**

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Post: GPO Box 1637 Melbourne VIC 3001 Australia

T: +61 3 8665 3100 F: +61 3 8665 3130

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