

THE ASSOCIATION OF AUSTRALIAN CERTIFIERS PROFESSIONAL STANDARDS SCHEME

PREAMBLE

- A. The Association of Australian Certifiers (AAC) is an occupational association for the purposes of the *Professional Standards Act 1994* (NSW) (the Act).
- B. The Scheme is prepared by the AAC for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.
- C. The Scheme applies to Full Members and Student Members of the AAC who are practising Registered Certifiers.
- D. The Scheme will have force in New South Wales.
- E. The AAC has furnished the Professional Standards Council (Council) with a detailed list of the risk management strategies to be implemented in respect of its members, and the means by which those strategies are to be implemented.
- F. The AAC has furnished the Council with details of its Insurance Standards and professional indemnity insurance claims monitoring process. The AAC will not amend these Insurance Standards while the Scheme is in force, without prior approval of the Council.
- G. The AAC has advised its members to whom the Scheme applies that they must have the benefit of a professional indemnity policy that complies with the association's Insurance Standards and that they remain liable for the amount of any difference between the amount payable to a plaintiff under the policy and the applicable monetary ceiling specified in the Scheme.
- H. The AAC has furnished the Council with details of its complaints system and discipline system.
- I. The AAC and its members to whom the Scheme applies have undertaken to comply with all reporting obligations associated with the Scheme, in furtherance of the statutory objects of improvement of the occupational standards of its members, and protection of the consumers of such members' services.
- J. The AAC has undertaken to remit all fees payable under the Act to the Council as and when these become due.
- K. The Scheme is intended to commence on 1 July 2026 and remain in force for five (5) years from its commencement unless, prior to that time, it is revoked, its operation ceases, or it is extended.
- L. Sections 12GNA(2) of the *Australian Securities and Investments Commission Act 2001* (Cth), 137(2) of the *Competition and Consumer Act 2010* (Cth), and 1044B(2) of the *Corporations Act 2001* (Cth) provide for limited liability where a Professional Standards Scheme is prescribed in the relevant regulation. The Scheme does not apply to limit any liability under a Commonwealth law unless it has been prescribed under regulations by the Commonwealth.

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1. Occupational association

- 1.1 The Association of Australian Certifiers Professional Standards Scheme (the Scheme) is a Scheme under the Act prepared by the AAC whose business address is: Suite 1B, 668 Old Princes Highway, Sutherland NSW 2232.

2. Persons to whom the Scheme applies

- 2.1 The Scheme applies to:
- 2.1.1. Full Members of the AAC and Student Members of the AAC, who are practising Registered Certifiers and hold professional indemnity insurance as required by Division 1 of Part 3 of the *Building and Development Certifiers Act 2018* (NSW), and
 - 2.1.2. all persons to whom the Scheme applies, by virtue of sections 18, 19, or 20 of the Act.
- 2.2 A person referred to in clause 2.1.1 may, on application by that person, be exempted from participation in the Scheme by the AAC with effect from the date specified by the AAC.

3 Jurisdiction

- 3.1 The Scheme applies in New South Wales.

4 Limitation of liability

- 4.1 This Scheme only affects the liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding \$1 million.
- 4.2 If a person who is, or was, at the time of the act or omission giving rise to occupational liability, a person to whom the Scheme applies, or applied, and against whom a proceeding relating to occupational liability is brought, is able to satisfy the court that such person has the benefit of an insurance policy:
- (a) of a kind which complies with the Insurance Standards,
 - (b) insuring such person against the occupational liability to which the cause of action relates, and
 - (c) under which the amount payable in respect of that occupational liability is not less than the applicable monetary ceiling specified in clause 4.3 of this Scheme,
- then that person is not liable in damages in relation to that cause of action above the applicable monetary ceiling specified in clause 4.3 of this Scheme.
- 4.3 The monetary ceiling is set out in the following table:

GROUP	CERTIFICATION CATEGORY	MONETARY CEILING (maximum amount of liability)
1	Restricted – Floor area less than or equal to 2,000 square meters and a rise of three storeys or less	\$1 million

2	Unrestricted – all other buildings	\$2 million
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- 4.4 Clause 4.2 does not limit the amount of damages to which a person to whom the Scheme applies is liable if the amount of damages is less than the amount specified for the purpose in this Scheme in relation to a person to whom the Scheme applies.
- 4.5 This Scheme limits the occupational liability in respect of a cause of action founded on an act or omission occurring during the period when the Scheme was in force of any person to whom the Scheme applied at the time the act or omission occurred.
- 4.6 Notwithstanding anything to the contrary contained in this Scheme if, in particular circumstances giving rise to occupational liability, the liability of any person who is subject to this Scheme is capped both by this Scheme and also by any other Scheme under Professional Standards Legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap on the liability of such person arising from such circumstances which is higher shall be the applicable cap.

5 Conferral of discretionary authority

- 5.1 The AAC has discretionary authority, on application by a person referred to in clause 2.1, to specify in relation to that person a higher maximum amount of liability than would otherwise apply under the Scheme, not exceeding \$10 million, in all cases or in any specified case or class of case.

6 Commencement and Duration

- 6.1 The Scheme will commence in New South Wales on 1 July 2026.
- 6.2 The Scheme will be in force for five (5) years from the date of its commencement.
- 6.3 Clause 6.2 is subject to the provisions of the Act in relation to the revocation, extension, or cessation of a scheme.

7 Definitions

- 7.1 Relevant definitions for the purpose of this Scheme are as follows:

“**AAC**” means the Association of Australian Certifiers.

“**Act**” means the *Professional Standards Act 1994* (NSW).

“**Constitution**” means the constitution of the AAC as amended from time to time.

“**court**” has the same meaning as it has in the Act.

“**damages**” has the same meaning as it has in the Act.

“**floor area**” has the same meaning it has in clause 7 of schedule 1 to the *Building and Development Certifiers Regulation 2020* (NSW).

“**Full Member**” means a Full Member or a Full (Local Government) Member of the AAC as defined in clause 3 of the Constitution.

“**Insurance Standards**” means the professional indemnity insurance standards approved by the AAC on [insert date] for the purposes of sections 27 and 34 of the Act and

contained in the AAC Insurance Standards Policy.

“occupational liability” has the same meaning as it has in the Act.

“person” means an individual or a body corporate.

“Registered Certifier” has the same meaning it has in the *Building and Development Certifiers Act 2018* (NSW).

“Student Member” means a Student Member of the AAC as defined in clause 3 of the Constitution.