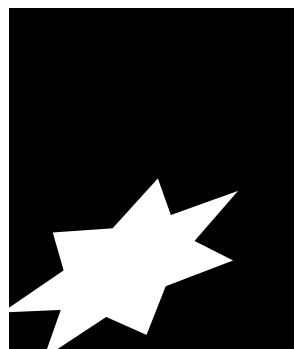


**POLICY PAYMENT
OF
ANNUAL FEES**



**PROFESSIONAL
STANDARDS
COUNCIL**

What is this policy about?

An occupational association, any of whose members are subject to a scheme in force under the Professional Standards Act, is required to pay annual fees to the Professional Standards Council. This policy statement gives guidance about the calculation of those fees.

Summary

An association with a scheme pays an annual fee to the Council. The fee is calculated on the number of members covered by the scheme.

The fee is calculated at the rate of \$50 per member per annum.

The fee is paid first within three months of the start of the scheme and, each quarter after that, fees are paid for any additional members who join the scheme in that quarter.

The fee is paid for the whole year irrespective of when the members join the scheme, as pro-rata in fee payment does not apply.

Interest is payable for the whole of overdue period if the fee is not paid within 30 days of the fee due dates.

The quarterly fee due dates during the annual fee period are the last days of first, second, third and fourth quarters from the scheme start date.

An association for any annual fee period is to provide to the Council an independent Annual Membership Verification Certificate within two months of the end of its annual fee period, setting down the detail of quarterly fee payments, fee due dates and the accrued interest if any. However, an association with the cumulative number of members less than 100 may provide the Council with the Annual Membership Declaration Certificate signed by its Chief Executive Officer/nominee and its accountant within the same timeframe and with the same level of detail, as specified for the Annual Membership Verification Certificate above.

No interest is payable during the relevant fee quarter for additional members so long as the cumulative number of additional members joining the scheme is 10 or less and the additional fee is paid off by the last fee installment due date at the end of the relevant scheme year.

The Council will apply any fee received to recover fees and interests of previous annual fee periods before applying it to the fee payment of the year in which it is received. Any interest accruing in the current annual fee period will be payable by the end of the fee period.

1. Legislative Requirements

- 1.1 Professional Standards Legislations provide for the limiting of occupational liability of professionals and other occupational groups under professional standards schemes approved by the Professional Standards Council.

- *Professional Standards Act 1994 (NSW)*
- *Professional Standards Act 1997 (WA)*
- *Professional Standards Act 2003 (Vic)*
- *Professional Standards Act 2004 (Qld)*
- *Professional Standards Act 2004 (SA)*
- *Professional Standards Act 2004 (NT)*
- *Civil Law (Wrongs) Act 2002 (ACT)*
- *Professional Standards Act 2005 (Tas)*

1.2 The objects of the legislations are to limit the civil liability of professionals and other occupational groups, improve occupational standards and protect consumers. A solicitor, accountant or other practitioner is liable for unlimited damages under the general law. However, a practitioner to whom a scheme applies has limited liability to the extent permitted under the legislation.

Objectives:

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
s3	s3	s3	s4	s3	s3	schedule 4.1	s3

1.3 The funds available for the purposes of enabling the Council to perform its functions include fees paid to the Council under the Professional Standards legislation by occupational associations. The annual fee payable by an occupational association to the Council is calculated on those members of the association who are covered by a scheme.

Functions:

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
s43	s12	s46	s43	s46	s45	schedule 4.37	s47

1.4 The Professional Standards legislations provide that the regulations may make provision concerning the fees for applications for the approval, amendment or revocation of a scheme and the annual fee to be paid to the Council by an occupational association whose members are subject to a scheme in force.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
s53(2)	s55(2)	s57(2)	s71(2)	s57(2)	s58(2)	n.a.	s57

- *Professional Standards Regulation 2004 (NSW)*
- *Professional Standards Regulation 1998 (WA)*
- *Professional Standards Regulation 2006 (SA)*
- *Professional Standards Regulation 2007 (QLD)*
- *Professional Standards Regulation 2007 (VIC)*

- *Professional Standards Regulation 2007 (NT)*

1.5 The *Professional Standards Regulations* provide:

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.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.5	cl.4	cl.5	cl.4	cl.4	cl.6	n.a.	n.a.

2. Who do the Schemes apply to?

2.4 The Professional Standards legislation provides that a scheme applies to a class of persons within an association. That class is specified in the scheme.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
s17	s30	s19	s19	s19	s18	schedule 4.15	s20

2.4 The Acts also mandatorily apply the scheme to the officers, partners and employees of the members within the class specified in the scheme.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
s18 & s19	s31 & s32	s20 & s21	s20 & s21	s20 & s21	s19 & s20	schedule 4.16	s21 & s22

2.3 The members of occupational associations are:
 individuals (ie., natural person), or
 firms (ie., partnership and companies), or
 both individuals and firms.

2.4 Most associations allow only individuals to be members. However, where associations have firms as members it is usual that the principals of the firm are required to be individual members of the association. Where a member firm is a partnership it is necessary for some or all of the partners to be individual members of the association. Some individuals, partnerships and companies provide services under a trading name.

3 How is the fee calculated?

- 3.1 The fee remains the liability of the occupational association. Some occupational associations raise the fee by levying their members.
- 3.2 The prescribed annual fee payable to the Council is to be calculated based on the number of members of the occupational association to whom the scheme applies, being:

the member within the class specified in the scheme,
the member who is a partner of that member,
the member who is an employee of that member.

4. Member Individual

- 4.1 Where the member within the specified class is an **individual** member of the association, the annual fee is calculated on the number of individual members in the class and on the number of other members of the association who are partners or employees of the individual members.
- 4.2 Where an occupational association has firms as members and requires some or all of the principals of the firm to also be individual members, the fee is calculated on the firms (where the firm is a company) and on the individuals within the firm (principals and employees) who are also members of the same occupational association. In respect of a member firm that is a partnership, the partners are to be regarded as the principals of the firm. In respect of a member firm that is a company, the directors of the company are to be regarded as the principals of the firm.

E.g. In respect of a sole practitioner, who is a member of the occupational association and within the class specified in the scheme and who employs support staff, none of whom are members of the same occupational association as the sole practitioner, the annual fee payable by the occupational association is calculated on the sole practitioner only. The calculated amount is 1 (1 member within the specified class) x \$50 = \$50.

5. Member Firm (Partnership)

- 5.1 Where the member within the specified class is a member firm and where the member firm is a partnership, the annual fee is calculated on the number of individual members of the association (ie., on each partner who is a member of the association and on the number of employees who are members of the association).

E.g. In respect of a firm with 10 partners all of whom are members of the occupational association and 200 employees, 90 of whom are members of

the same occupational association, the calculated amount is 100 (10+90) x \$50= \$5000.

6. Member Firm (Company)

- 6.1 Where the member within the specified class is a member firm and where the member firm is a **company**, the fee is calculated on the number of member companies of the association and on the number of employees within the company who are members of the association.

E.g.: In respect of a company with 4 directors and with 95 employees all of whom are members of the same occupational association, the company is itself a legal entity and, as a member of the occupational association must be counted. The calculated amount is 100 (the sum of 1 + 4 + 95) x \$50 = \$5000.

7. Calculation of fees

- 7.1 If a scheme applies to a partner, it also applies to each partner of the person. However, if the person is entitled to be a member of the occupational association, but chooses not to be a member, the scheme does not apply to the partner(s).
- 7.2 If an employee of a person who is a member of the occupational group, is entitled to be a member of the same occupational association, but chooses not to be a member of that occupational association, the scheme does not apply to the employee.
- 7.3 An occupational association with individuals only as members would calculate fee on the number of such members and on the number of the employees who are the members of the same association as that of individual members.
- 7.4 An occupational association with firms and individuals as members would calculate the fee:
- if the firm is a partnership, on the number of partners and employees who are members of the same association as that of partners.
 - if the firm is a company, on the entity, number of directors and employees who are members of the same association as that of the company.

8. When is the fee due?

- 8.1 "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.

cl 3 Professional Standards Regulation 2004 (NSW)

8.2 The annual fee is payable no later than at the end of the first quarter of each annual fee period. If for any reason a scheme becomes applicable to an additional member of the occupational association during the annual fee period, the appropriate payment must be made in respect of the additional member at the end of the quarter in which the scheme became applicable to that member.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.6	cl.4	cl.5	cl.4	cl.4	cl.7	n.a.	n.a.

Scheme commenced	Annual fee period	Payment Due	Second instalment due (if any)	Third instalment due (if any)	Fourth instalment due (if any)
14/04/2008	14/04/08 - 13/04/09	30/06/2008	30/09/2008	31/01/2009	31/03/2009
	14/04/09 - 13/04/10	30/06/2009	30/09/2009	31/01/2010	31/03/2010
	14/04/10 - 13/04/11	30/06/2010	30/09/2010	31/01/2011	31/03/2011
	14/04/11 - 13/04/12	30/06/2011	30/09/2011	31/01/2012	31/03/2012
	14/04/12 - 13/04/13	30/06/2012	30/09/2012	31/01/2013	31/03/2013
Interest accrues		30/06 (if fees not paid by 30/07) Qld: 01/08 (if fees not paid by 30/07)	30/09 (if fees not paid by 30/10) Qld: 01/11 (if fees not paid by 30/10)	31/01 (if fees not paid by 02/03 or 01/03 on a leap year) Qld: 03/03 or 02/03 on a leap year (if fees not paid by 02/03 or 01/03 respectively)	31/03 (if fees not paid by 30/04) Qld: 01/05 (if fees not paid by 30/04)

8.3 If any amount of the annual fee (including any payment required for additional members) is not paid within 30 days after it is due, simple interest at the rate of 0.05% per day is payable on the outstanding balance until that balance is paid.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.7	cl.4	cl.5	cl.5	cl.4	cl.8	n.a.	n.a.

- 8.4 Annual fees are calculated for each person to whom the scheme applies who is a member of an occupational association **at any time during** the relevant annual fee period.
- 8.5 Therefore there is no recalculation or pro rata remission of fees based on any members to whom the scheme ceases to apply during the annual fee period.
- 8.6 Where a practitioner or firm reports the number of members in the firm to the occupational association at the commencement of the annual fee period, it is NOT required to advise the occupational association of any increase in staff or movement of staff.
- 8.7 If the number of members joining a scheme during a fee quarter is 10 or less, no interest will be charged for full payment made for additional members within 30 days of the end of the Association's scheme year. However, the applicable interest will be charged if the additional fee is not paid within 30 days of the end of a fee quarter by which the number of cumulative additional members joining a scheme during different quarterly fee periods exceeds 10.

9. Interest Calculation

- 9.1 Fee details are based on the information contained in annual membership verification/declaration certificates provided and records of payment. Simple interest at the rate of 0.05% per day is payable on the outstanding balances until that balance is paid.

In the example given at **When is the fee due?** Interest would be calculated as follows:

In the example above, $\$2500 \times 0.0005 \times$ number of days from 30/06/08 to the date of payment of the annual fee.

10. Annual Membership Verification/Declaration Certificates

- 10.1 The Council requires occupational associations to provide the Council an independent Annual Membership Verification Certificate as to the number of occupational association members to whom the scheme applied for the subject annual fee period, the fee payable and the dates and amounts paid to the Council for the annual fee period.
- 10.2 The Annual Membership Verification Certificate should be prepared annually, showing the quarterly position, as payment is required within the first 3 months of each annual fee period, and quarterly thereafter for the remainder of the period.

- 10.3 The Certificate should also report the interest payable for the annual fee period, if any, showing the quarterly position and the dates and amounts paid.
- 10.4 The Certificate must be prepared by a qualified accountant who is a member of a “Professional Accounting Body”, which is defined as the CPA Australia, the Institute of Chartered Accountants in Australia and the National Institute of Accountants, with the exception that the member cannot sign the report of the association of which (s)he is a member.
- 10.5 An association with the cumulative members of less than 100 in any annual fee period may submit the Annual Membership Declaration Certificate, signed jointly by its Chief Executive Officer (or his/her nominee) and Financial Controller.”
- 10.6 “The Council, by giving to an association an advance notice of 21 days, may inspect an association’s accounts to verify an association’s numbers of members to whom a scheme applied for each quarter during any annual fee period.”
- 10.7 The Annual Membership Verification/Annual Membership Declaration Certificate is due within two months of the end of an association’s scheme year.

See the Proforma Annual Membership Verification/Declaration Certificates

11. Is remission of amounts payable possible?

- 11.1 The Council may, if it considers that there are special reasons for doing so in a particular case, remit the whole or any part of either or both:
the fee payable for an application for the approval of the Council of an amendment to, or revocation of a scheme;
- the annual fee;
 - any interest payable.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.8	cl.5	cl.7	cl.6	cl.4	cl.9	n.a.	n.a.

12. Refund Policy

- 12.1 As there is no re-calculation or pro rata remission of fees based on any members to whom the scheme ceases to apply during the annual fee period, no fee will be returned for any person who ceases to be a member at any time during the fee period.

- 12.2 If an association owes fees and/or interest to the Council for previous annual fee periods, any fee payment received in the current annual fee period will first be applied to the recovery of fees and interest of the past years in order of due dates. Any excess amount remaining after the full recovery of previous years' interest and fee will be applied first to the fees of the current annual fee period in order of due dates. Any interest accruing in the current annual fee period will be payable by the end of the fee period.
- 12.3 If the association overpays the fee in respect of its scheme, any balance remaining will be applied in the following order:
- a) first to any amount owing to the Council;
 - b) then to any amount that may fall due in future, unless the association elects for a refund.
- 12.4 If the association elects to receive a refund, the Council will return any balance of overpayment to the association within two weeks of verifying that the overpayment has been made, if the overpayment is not fully used under 12.3 above.

13 PROFORMA ANNUAL VERIFICATION/DECLARATION CERTIFICATES

13.1. PROFORMA ANNUAL MEMBERSHIP VERIFICATION CERTIFICATE^a

ANNUAL MEMBERSHIP VERIFICATION CERTIFICATE

MEMBERSHIP VERIFICATION of [Occupational Association] Scheme in [State/Territory].

Scope

We have examined the attached Returns for the *[name of Occupational Association]* for the annual fee period. Each period^b [to]. The *[name of Occupational Association]* are responsible for the preparation and presentation of the Returns and the information they contain. We disclaim any assumption of responsibility for any reliance on this report or on the Returns to which it relates to any person other than the Professional Standards Council; or for any purpose other than that for which it was prepared.

We have conducted an independent examination of the Returns in order to express an opinion on them to the Professional Standards Council. - Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the Returns. These procedures have been undertaken to form an opinion whether in all material respects, the attached Returns are presented fairly in accordance with the Council's requirements.

Our Opinion

Our opinion expressed in this report has been formed on the above basis. In our opinion the information contained in the attached Returns and detailed in the table below is presented fairly and in accordance with the underlying records of the *[name of Occupational Association]*.

quarter	cumulative no of members	amount due to PSC ^c	amount paid ^d	date paid ^e	interest due ^f to PSC (if any) as at certification date	Interest paid	date paid
1 ^g							
2 ^h							
3							
4							

[SIGNATURE OF ACCOUNTANT] _____

DATE OF EXAMINATION] _____

- a The Council reserves the right to inspect the relevant accounts of an association providing the Annual Membership Verification Certificate.
- b Each period of 12 months beginning on the date on which the scheme commenced and on each anniversary of that date: clause 3 Professional Standards Regulation 2004.
- c List amounts due per quarter, not cumulatively. Requirements for the payment fees are specified in the Professional Standards Regulation 2004 (Part 2 and specifically clause 5) and the Council's Policy on the Payment of Fees.

d

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.5	cl.4	cl.5	cl.4	cl.4	cl.6	n.a.	n.a.

e

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.6	cl.4	cl.5	cl.4	cl.4	cl.7	n.a.	n.a.

f Rate of 0.05% per day

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.7	cl.4	cl.5	cl.5	cl.4	cl.8	n.a.	n.a.

- g number of members covered at any time during the quarter
- h number in quarter 1 plus any additional members covered at any time during the 2nd quarter and so on for quarters 3 & 4.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.6(2)	cl.4(5)	cl.5(3)	cl.4(4)	cl.4(3)	cl.7(2)	n.a.	n.a.

13.2 PROFORMA ANNUAL MEMBERSHIP DECLARATION CERTIFICATE

ANNUAL MEMBERSHIP DECLARATION CERTIFICATEⁱ

Membership Declaration of [Occupational Association] Scheme in [State/Territory].

Scope

We have examined the attached Returns for the *[name of Occupational Association]* for the annual fee period^j [to]. The *[name of Occupational Association]* are responsible for the preparation and presentation of the Returns and the information they contain. We disclaim any assumption of responsibility for any reliance on this report or on the Returns to which it relates to any person other than the Professional Standards Council; or for any purpose other than that for which it was prepared.

We have conducted an examination of the Returns in order to express an opinion on them to the Professional Standards Council. - Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the Returns. These procedures have been undertaken to form an opinion whether in all material respects, the attached Returns are presented fairly in accordance with the Council's requirements.

Our Opinion

Our opinion expressed in this report has been formed on the above basis. In our opinion the information contained in the attached Returns and detailed in the table below is presented fairly and in accordance with the underlying records of the *[name of Occupational Association]*.

quarter	cumulative no of members	amount due to PSC ^k	amount paid ^l	date paid ^m	interest due ⁿ to PSC (if any) as at certification date	interest paid	date paid
1 ^o							
2 ^p							
3							
4							

[SIGNATURE OF CEO/NOMINEE] _____

[DATE OF EXAMINATION] _____

i May be used by an association in lieu of the Annual Membership Verification Certificate in the Annual Fee Period in which its cumulative number of members joining the scheme does not exceed 100. The Council reserves the right to inspect the relevant accounts of an association providing the Annual Membership Declaration Certificate.

j Each period of 12 months beginning on the date on which the scheme commenced and on each anniversary of that date: clause 3 Professional Standards Regulation 2004.

k List amounts due per quarter, not cumulatively. Requirements for the payment fees are specified in the Professional Standards Regulation 2004 (Part 2 and specifically clause 5) and the Council's Policy on the Payment of Fees.

l

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.5	cl.4	cl.5	cl.4	cl.4	cl.6	n.a.	n.a.

m

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.6	cl.4	cl.5	cl.4	cl.4	cl.7	n.a.	n.a.

n Rate of 0.05% per day

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
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cl.7	cl.4	cl.5	cl.5	cl.4	cl.8	n.a.	n.a.
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o number of members covered at any time during the quarter

p number in quarter 1 plus any additional members covered at any time during the 2nd quarter and so on for quarters 3 & 4.

NSW	WA	VIC	QLD	SA	NT	ACT	TAS
cl.6(2)	cl.4(5)	cl.5(3)	cl.4(4)	cl.4(3)	cl.7(2)	n.a.	n.a.