

FACT SHEET

Professional Standards Amendment Bill 2016

This Bill amends the *Professional Standards Act 2005* to repeal section 27(c), insert mutual recognition provisions, prevent retrospective application of schemes to existing contracts and make any necessary consequential amendments.

The rationale behind the introduction of professional standards legislation was that, by limiting the liability of professionals that belong to a professional association, the maximum level of insurance required is reduced, leading to lower professional indemnity premiums. In addition, the requirement to maintain a certain level of professional standards should protect consumers.

Tasmania's Professional Standards Act 2005 to date has differed in one respect from the professional standards legislation in mainland jurisdictions.

Under section 27(c) of the Tasmanian Act, a scheme must provide that the professional association is to agree to increase the cap on liability for a scheme member on application by that member in a particular case.

Since commencement of the Act a number of professional associations have lobbied for the removal of subsection 27(c) on the grounds that it has made the Tasmanian Act unworkable.

In 2014 the Government requested the Departments of Treasury and Finance and Justice to review the public interest case for retaining or removing the subsection. All submissions received by the review were in favour of removing the subsection.

As any risk from removing the provision was judged to be low and the fact that the removal of the provision will encourage professional standards schemes in Tasmania, this Bill repeals section 27(c).

The Bill also inserts national model mutual recognition provisions adopted earlier by other Australian jurisdictions into the Act. The mutual recognition provisions will reduce the duplication and inefficiency that currently exists in requiring applications to be made to the Professional Standards Council in each jurisdiction and to provide a more seamless national system of professional standards schemes.

The mutual recognition provisions were unable to be adopted earlier because of the inconsistency of section 27(c) with professional standards legislation elsewhere in Australia.