



PSS Exemptions Guidelines 2025-2029

Version: 1.0

Purpose

The purpose of these guidelines is to set out the requirements and considerations for approving an application for exemption from:

- the requirement to participate in the ACS Professional Standards Scheme; or
- an insurance requirement under the ACS Insurance Standards that would otherwise be mandatory for participants of the ACS Professional Standards Scheme.

Contents

Purpose.....	2
1. ACS Professional Standards Scheme.....	4
1.1. What is a Professional Standards Scheme?	4
1.2. How does the ACS Professional Standards Scheme work?	4
1.3. Who must participate in the PSS?.....	4
2. Exemption Types	4
2.1. Exemption from participation in the PSS.....	4
2.2. Exemption from an ACS Insurance Standards requirement.....	5
3. Discretion of ACS to Approve/Decline/Revoke Exemptions.....	6
3.1. Absolute discretion.....	6
4. Exemption from Participation in the PSS.....	6
4.1. Non-practising CP member	6
4.2. CP member only providing internal technology services as employee.....	6
4.3. CP member solely in academic or education practice	6
4.4. CP member residing overseas.....	6
4.5. Necessary or desirable.....	6
5. Process to Apply for Exemption from PSS Participation	7
5.1. Timing and mode of application	7
5.2. Delegation to approve exemption applications.....	7
5.3. Effect of exemption approval under section 5	7
5.4. Duration of exemptions.....	7
5.5. Change in circumstances while exemption is in force.....	8
5.6. Audit of exemptions.....	8
5.7. Consequences of failure to join PSS, obtain an exemption or pass audit	8
6. Exemption from ACS Insurance Standards Requirements.....	8
6.1. Timing and mode of application	8
6.2. Delegation to approve exemption applications.....	9

6.3.	Effect of exemption approval under section 6	9
6.4.	Duration of exemptions	9
6.5.	Consequences of failure to obtain an exemption where required	9
7.	Variation of Exemption Guidelines	9
7.1.	PSB can vary this document	9
7.2.	Further guidelines	9
8.	Version History	10
9.	Approvals	10
10.	Distribution	10
11.	Document Control	10

1. ACS Professional Standards Scheme

1.1. What is a Professional Standards Scheme?

A professional standards scheme, regulated by the Professional Standards Councils (PSC), is a legal arrangement that caps the civil liability, or damages arising from a civil legal proceeding, in the event that a court upholds a claim against a person who is, or was at the time of the event/omission that is the subject of the claim, a participant of that professional standards scheme.

The Scheme Instrument sets out the details of the ACS PSS' scope, jurisdiction, duration and limitation of liability. The ACS Insurance Standards accompanies the Scheme Instrument and sets out the insurance obligations that are required of ACS members participating in the PSS.

1.2. How does the ACS Professional Standards Scheme work?

The ACS Professional Standards Scheme (PSS) caps occupational liability of participants to \$2 million per claim if the following requirements can be satisfied:

- PSS participation was pleaded as a defence at the commencement of a proceeding;
- They were an PSS participant at the time of the event of the event/omission giving rise to the claims; and
- They have a current PI insurance policy that:
 - insures them against the 'occupational liability' to which the cause of action relates;
 - the amount payable under the PI insurance policy is not less than the amount of the monetary ceiling applicable at time of the act/omission which gave rise to the claim (i.e. \$2 million); and
 - the PI insurance is compliant with the ACS Insurance Standards.

1.3. Who must participate in the PSS?

Under the ACS Professional Standards Policy, all financial ACS members with a CP certification must participate in the PSS, unless the ACS approves exemption from this requirement.

In addition to general professional obligations, participating members must also comply with PSS-specific professional obligations – a key aspect of which is holding, or having the benefit of, an insurance arrangement that meets the requirements of the ACS Insurance Standards.

2. Exemption Types

2.1. Exemption from participation in the PSS

The relevant section in the Scheme Instrument is as follows:

- 2 Persons to Whom the Scheme Applies
- 2.1 The Scheme applies to:
 - 2.1.1 all Participating Members; and

- 2.1.2 persons to whom the Scheme applies pursuant to sections 18, 19, or 20 of the Act.
- ...
- 2.3 The ACS may, on application by a person to whom the Scheme would otherwise apply under clause 2.1, exempt that person from the Scheme with effect from the date specified by the ACS.
- 2.4 The ACS may, upon application by a person exempted from the Scheme under clause 2.3, revoke such exemption with effect from the date specified by the ACS.

If the ACS grants this type of exemption to an ACS CP member, they are not required to participate in the PSS and do not have the benefit of capped liability under the PSS.

2.2. Exemption from an ACS Insurance Standards requirement

The relevant sections in the ACS Insurance Standards are as follows:

- 2. The ACS Insurance Standards document contains:
 - 2.1 **Standards** which represent minimum requirements with which Participating Members are required to comply in order to gain the benefit of the Limitation of Liability provided by the Scheme. Standards are designated by the use of the word 'must'.
 - 2.2 **Advisory Statements** which the ACS encourages Participating Members to adopt but which do not have the status of Standards for the purpose of application of the Professional Standards Legislation. Participating Members are not required to comply with these provisions. Advisory Statements are designated by use of the word 'should'.
 - 2.3 **Permissive Statements** which identify insurance arrangements which a Participating Member may adopt and which, if adopted, will not place the Participating Member in breach of the ACS Insurance Standards. Permissive Statements are designated by the use of the word 'may'.
- ...

Exemptions and approvals

- 39. The ACS may, in its discretion, grant an exemption to a specific Participating Member, or group of Participating Members, from compliance with one or more of Standards contained in the ACS Insurance Standards.
- 40. The ACS may, in its discretion, approve a policy provision even though that provision does not or may not strictly comply with a mandatory policy requirement set out in the ACS Insurance Standards where, in the reasonable assessment of the ACS:
 - 40.1 the provision is not inconsistent with the objectives of the ACS Insurance Standards; and
 - 40.2 in the absence of such approval, the Standard(s) would operate unfairly and/or cause undue hardship to a Participating Member.
- 41. Where a provision in a PI Policy has been approved by the ACS, the PI Policy shall not be non-compliant with the ACS Insurance Standards by reason only of the fact that it contains that provision.
- 42. The ACS may, in its discretion, approve a particular form of PI Policy wording even though that policy wording does not or may not strictly comply with one or more Standards set out in the ACS Insurance Standards where, in the reasonable assessment of the ACS:
 - 42.1 the policy wording, considered as a whole, is not inconsistent with the objectives of the ACS Insurance Standards; and
 - 42.2 in the absence of such approval, the ACS Insurance Standards would operate unfairly and/or cause undue hardship to a Participating Member or group of Participating Members.

Only clauses expressed as a **Standard** may be considered for exemption by the ACS as advisory Statements and Permissive Statements are not mandatory requirements.

Further, exemption cannot be granted for any of the requirements set out in the following clauses of the ACS Insurance Standards:

- 4, 5, 7-10, 12, 18.

An ACS CP member holding this type of exemption will remain a PSS participant compliant with ACS Insurance Standards and will have continued benefit of the Scheme.

3. Discretion of ACS to Approve/Decline/Revoke Exemptions

3.1. Absolute discretion

The ACS has the absolute discretion to grant, decline or revoke an exemption.

4. Exemption from Participation in the PSS

To obtain an exemption from participation in the PSS, an application must be made to the ACS. The ACS may, in its absolute discretion, grant exemptions (upon the applicant providing appropriate evidence), in the following categories:

4.1. Non-practising CP member

A CP member who does not provide any professional services in technology and/or does not receive any fee, retainer or income from professional services in technology.

This category includes unemployed or retired CP members and those only carrying out volunteer work.

4.2. CP member only providing internal technology services as employee

A CP member where:

- their sole source of professional income is as an employee of an organisation that does **not** provide professional services in technology;

and

- they provide internal technology services only.

4.3. CP member solely in academic or education practice

A CP member whose sole source of professional income is in academic or education practice and does not provide any other paid professional services in technology.

4.4. CP member residing overseas

A CP member who resides overseas.

4.5. Necessary or desirable

A CP member who is able to satisfy that it is necessary and/or desirable, for the CP member to be exempted from participating in the PSS.

5. Process to Apply for Exemption from PSS Participation

5.1. Timing and mode of application

Each year, a CP member is required to complete an annual compliance declaration, a key aspect of which is to declare their employment status to determine if they need to participate in the PSS or apply for exemption.

A CP member who wishes to be exempted from PSS participation must submit their application via the annual compliance declaration confirming that they are eligible for exemption under one of the categories set out at section 4 above.

A CP member who is applying for exemption from PSS participation under clause 4.5 above must submit the following supporting information for their application:

- (a) evidence of exceptional circumstances that warrant the granting of an exemption to the Applicant as set out in the Guidelines; and
- (b) any further information that the ACS may request to be able to substantiate exceptional circumstances.

Failure to submit required declaration or supporting information may delay the application process and/or cause the application to be declined to be considered until that required information is submitted.

Note: The ACS may set out further guidelines from time to time as to what circumstances may fall within the scope of clause 4.5.

5.2. Delegation to approve exemption applications

The PSS Manager has delegation to approve exemption applications for the categories set out above in clauses 4.1 to 4.4.

The ACS Professional Standards Board (PSB) has delegation to approve exemption applications for the category outlined in clause 4.5.

5.3. Effect of exemption approval under section 5

If the ACS approves an exemption under any of the categories set out at clauses 4.1 to 4.5, the CP member will not be able to rely on the PSS to cap their liability for any claims arising from professional services conducted whilst the exemption is in force.

For any exemption granted under any of the categories in clauses 4.2 to 4.4, the exemption:

- is **only** effective in respect of work undertaken on behalf of the employer/principal stated in the exemption application; and
- does not apply to employment/contracting services carried out by the CP member for any other employer/principal.

5.4. Duration of exemptions

Unless otherwise approved by the ACS, all exemptions are granted on a twelve (12) months basis and CP members need to reapply each year.

Exemption granted to a CP member is only valid while they remain employed by, or contracted to, the employer or principal stated in their exemption application. In the event that the CP member changes their employer or commences to undertake work as a contractor to a new/additional firm:

- (a) the existing exemption ceases to be effective; and
- (b) if they are still eligible for exemption and wish to continue to be exempted from PSS participation, the CP member must apply for a new exemption in respect of the new/additional employer/principal.

5.5. Change in circumstances while exemption is in force

A CP member whose circumstances change during the exemption period must immediately advise the ACS of such change in circumstances. A change in circumstances may result in the revocation of the exemption.

5.6. Audit of exemptions

ACS may conduct a random audit of exemptions granted to ACS Members from time to time.

5.7. Consequences of failure to join PSS, obtain an exemption or pass audit

A CP member who fails any of the following will be in breach of the ACS Professional Standards Policy and may be subject to revocation of their certification by the Director, Capability:

- participate in the ACS PSS;
- obtain an exemption from the participation requirement; or
- pass an audit on their exemption status.

6. Exemption from ACS Insurance Standards Requirements

6.1. Timing and mode of application

At any time, a CP member, a person representing the principal/employer of the CP member named as an insured in the PI insurance policy, or an insurer may in writing apply to the ACS for exemption to comply with an ACS Insurance Standards requirement expressed as a **Standard** (i.e. the clause uses the word 'must').

For the ACS to consider the exemption application, the applicant must submit the following:

- (a) a completed exemption application form, published on the ACS' website at www.acs.org.au; and
- (b) supporting documentation, e.g. advice from insurance broker that the applicant cannot reasonably obtain an insurance policy that meets the relevant requirement(s).

Failure to submit required information may delay the application process and/or cause the application to be declined to be considered until required information is submitted.

The ACS may exercise its discretion to apply an exemption of an ACS Insurance Standards requirement in relation to a specific insurance policy or broadly against all PSS participants' insurance policies.

6.2. Delegation to approve exemption applications

The PSS Manager has delegation to approve exemption applications relating to ACS Insurance Standards requirements on such conditions as the ACS may impose.

6.3. Effect of exemption approval under section 6

If the ACS approves an exemption from an ACS Insurance Standards requirement under this section:

- the PI Policy shall not be non-compliant with the ACS Insurance Standards by reason only of the fact that the ACS has granted the exemption; and
- for avoidance of doubt, the CP member will continue to be a participant in the PSS.

6.4. Duration of exemptions

Unless otherwise approved by the ACS, all exemptions:

- are valid for the insurance policy period that is the subject of the exemption application only; and
- will cease to be effective at the end of such insurance policy period.

A new exemption application must be submitted for the new insurance policy period if the exemption is to continue.

6.5. Consequences of failure to obtain an exemption where required

If a PI insurance policy contains a provision that is inconsistent with an ACS Insurance Standards requirement expressed as a **Standard**, the CP member may not be able to cap their liability under the PSS in the event that a claim is brought against them.

7. Variation of Exemption Guidelines

7.1. PSB can vary this document

The PSB, at the recommendation of the PSS Manager, may vary the exemption categories contained in this document from time to time.

7.2. Further guidelines

The ACS may set out further guidelines from time to time as to what evidence is required to substantiate an application for an exemption under any exemption category contained in this document.

8. Version History

Name	Revision History	Date of Issue	Version
Anna Shin	Initial document	29 February 2024	0.1
Anna Shin	Updated initial document	26 February 2025	0.2

9. Approvals

Name	Revision History	Date of Issue	Version
ACS Professional Standards Board		05/03/2025	V1.0

10. Distribution

Name	Revision History	Date of Issue	Version

11. Document Control

Custodian title & e-mail address:	Professional Standards Scheme Manager pss@acs.org.au
Responsible Business Unit:	Capability
Content Security:	PUBLIC Distribution unlimited