

# **PROFESSIONAL STANDARDS BILL 2004**

## **EXPLANATORY NOTES ON AMENDMENTS TO BE MOVED IN COMMITTEE**

### **General Outline**

#### **Objectives of the Legislation**

To ensure the objects of the Act are achieved whilst ensuring maximum practical operability of the law.

#### **Reasons for the objectives and how they will be achieved**

Further consultation with various stakeholders through the Insurance Issues Working Group has identified a number of application and drafting issues. The proposed amendments deal with those concerns.

#### **Administrative cost to Government of implementation**

There are no financial implications for the Government as a result of the amendments.

#### **Consistency with Fundamental Legislative Principles**

The amendments do not breach fundamental legislative principles.

### **Consultation**

#### **Community**

There has been further consultation with representatives of the Insurance Council of Australia. Also, further submissions were received from insurers and various professional bodies by the national Insurance Issues Working Group.

**Government**

The Insurance Issues Working Group has agreed on the policy behind the proposed amendments as being appropriate for a national professional standards legislation scheme. Queensland Treasury and the Department of Justice and Attorney-General are represented upon this Working Group, and support the amendments as appropriate.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY**

*Clause 1* amends clause 6 of the Bill by inserting a new heading to properly reflect the content of the clause once amended by these amendments in committee.

*Clause 2* amends clause 6 of the Bill by inserting a new subsection. The subsection provides that the Act, in respect of the parties to a contract entered into before the commencement of the Act, will not apply to liability that arises out of any act or omission related to compliance with the contract. For the Act to apply, the contract must either specifically refer to the Act or must be renegotiated to take the provisions of the Act into account.

*Clause 3* amends clause 25 of the Bill to insert a new subsection. The subsection provides that a scheme may set a limit of liability by way of reference to a formula. Any scheme that identifies the limit in this way will need to appropriately identify each factor in the formula. Any formula is still required to be approved by the Professional Standards Council.

*Clause 4* amends clause 30 of the Bill to expand the definition of “associated persons”. The amendment will ensure inclusion within the definition of those person’s who, despite not necessarily being able to satisfy a strict employer/employee relationship test, would be considered to be related to the body corporate in a substantially similar role. The amendment gives full effect to the policy outlined in the Explanatory Note to clause 30 of the Bill.

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