

## Guidance

# Occupational group and occupational association

## Using this guidance

This guidance will help you to complete [Submodule 1.1](#).

When you apply for a professional standards scheme, you must satisfy us that your association is an **occupational association**. To do this, you will need to show that it:

- is a body corporate
- represents the interests of members of the same occupational group (or members of related occupational groups in certain states and territories)
- limits its membership mainly to members of that group (or those groups).

The following table will guide you to the legislation and definition of occupational association for your state or territory.

Jurisdiction	Legislation	Reference
Australian Capital Territory	<a href="#">Civil Law (Wrongs) Act 2002</a>	Schedule 4 section 4(1)
New South Wales	<a href="#">Professional Standards Act 1994</a>	section 4(1)
Northern Territory	<a href="#">Professional Standards Act 2004</a>	Schedule 2
Queensland	<a href="#">Professional Standards Act 2004</a>	section 4(1)
South Australia	<a href="#">Professional Standards Act 2004</a>	section 4(1)
Tasmania	<a href="#">Professional Standards Act 2005</a>	section 4(1)
Victoria	<a href="#">Professional Standards Act 2003</a>	section 4(1)
Western Australia	<a href="#">Professional Standards Act 1997</a>	section 4.2

## Understanding the requirements for this submodule

To complete this requirement, you can either:

- **Submit a legal advice** written to your association that confirms it is an occupational association under the professional standards legislation and sets out reasons. This legal advice will also need to satisfy us.
- **Complete the Occupational group and occupational association [template](#)** to determine whether your association meets the legal definition.



The template asks 5 questions about your association. This guidance explains the questions and the supporting information that you will need to provide.

## Incorporation

**Question 1** asks for evidence of current incorporated status. This could be a copy of the entity's current certificate of incorporation or company registration.

## Professional group, trade group or another eligible occupational group

**Question 2** asks about the occupational group your association represents. Under professional standards legislation, an **occupational group** can include a **professional group** or **trade group**.

A **professional group** is a group of people who share specialised knowledge and particular competence. While the concept of 'a profession' is evolving and will be a matter of fact and degree in each case, a profession is generally an occupation that:

- requires the application of professed or specialised knowledge, rather than mere skill, and requires particular competence in applying that knowledge
- requires a degree and successful completion of related assessments for entry into the profession
- requires admission into a professional association to practice the profession (although this may not always be the case)
- requires members to comply with standards and accept disciplinary sanctions if they breach them
- aims for altruistic public service, with public interest prioritised over professional and personal interests
- is broadly accepted and recognised as a profession by the community.

A **trade group** is a group of people who share specialised physical or manual skills. Typically, a trade group:

- has common entry and qualification requirements
- is recognised as a trade group by the community.

If your association represents the interests of an occupational group that is not widely recognised, you will need to satisfy us that the group fits the legal definition of an occupational group.

That is, you will need to show that members:

- share identifiable characteristics, allowing them to be considered related because they have the same habitual employment, business, trade or calling
- would be recognised as belonging to the same vocational group by the community.

Whether the association is an occupational group is a factual enquiry. We will focus on the work the group does, not the industry it operates in, and may consider factors such as:

- whether group members do the same work, using accepted techniques and principles
- the training and education requirements, and whether these are common for all members
- whether a single body has assumed an occupational oversight function.

## Occupational group's interests

**Question 3** asks you to satisfy us that your association represents the interests of members of an occupational group. When assessing this, we may consider:

- your constitution, rules of incorporation, statutory rules and other relevant documents



- evidence of your association's activities to determine whether it does what it was formed to do.

You should show how your association speaks and acts in the interest of people who belong to the same occupational group. This could be through activities such as advocacy or policy reform work.

If your association also represents other parties' interests, you should also demonstrate and provide evidence of an effective, active policy and process for managing conflicts of interest.

## Limited membership

**Question 4** asks you to show that the eligibility criteria in your association's constitution limits membership mainly to the particular occupational group that it represents (or related occupational groups, as outlined below). It is not enough to show that membership is mainly comprised of members of the occupational group when you apply.

## Related occupational group

Finally, if your association claims to represent related occupational groups, you must show that they are related by occupation and not just by working in a common industry.

In jurisdictions that do not permit related occupational groups in one scheme, you will need to show that group members' work is similar enough for them to be viewed as one group. For example, we may consider the association-based postgraduate training and qualification requirements for group members, and whether they are the same for all members.

## Copyright and document control

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Version	Approved by	Approval date	Effective date	Sections modified
1.0	PSC	18 June 2021	1 July 2021	This is new guidance

## Disclaimer

This guidance applies only to an occupational association preparing a scheme for approval under professional standards legislation. It is not legal or other professional advice and should not be relied on as such. An occupational association should seek its own legal/professional advice to find out how the



professional standards legislation and other relevant laws and regulations may apply to it. Go to [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) to access NSW legislation.

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