

AVI Directors Policy Statement Scheme Exemption and Discretionary Higher Caps

Australian Valuers Institute Directors' Policy Statement Scheme Exemption and Discretionary Higher Caps Professional Standards Scheme

Introduction

A Scheme approved under Professional Standards Legislation that applies to AVI members may provide, in accordance with the legislation that the Institute may exempt a member from the Scheme. A member may apply, and the Institute may exercise a discretionary authority to specify a higher limitation of liability in relation to the member than otherwise applies under the Scheme.

Exemption

The Institute, on the application of a person to whom the scheme applies, may exempt the person from the scheme on the following criteria;

- The person is of the class of persons to whom the scheme applies at the time,
- The person is entitled to apply to be exempted,
- The exemption application is made in writing to the association,
- There are reasonable grounds for exempting the person.

The grounds determined by the Institute to be reasonable in the particular case include but are not limited to;

- Applying the scheme to the person would cause hardship to the person,
- Exempting the person is unlikely to substantially disadvantage other persons to whom the scheme applies, or
- Exempting the person is unlikely to adversely affect protection for consumers of the person's services.

Higher Cap

The member may apply for the higher cap to apply to all cases or to a specified case.

The Institute in the exercise of its discretionary authority may specify a higher cap to apply to all cases that will apply for the remainder of the current annual fee period that applies under the Scheme. The member may make a further application to apply the higher cap for one or more subsequent annual fee periods.

Where the higher cap applies to a specified case it will apply and remain in force until the specified case ceases. A specified case is a particular engagement between the member and a particular client.

The member may apply once in an annual fee period to increase an authorised higher cap.

The criteria the association will consider when determining whether or not to specify a higher maximum amount of liability are;

- Insurance is available and affordable for the member under which the amount payable is not less than the higher amount of limited liability,
- The insurance policy for the higher liability amount complies with the association's insurance standards required of all members covered by the scheme,
- The member has sufficient business assets to meet the amount of the deductible that will apply under the higher liability insurance policy,
- Denying the application for a higher limited liability would cause the member financial hardship, and
- The higher limited liability would provide a greater level of protection for the consumers of the member's services.

The evidence required to substantiate a higher cap should include;

- Evidence of the higher insurance cover including a copy of the proposed insurance policy or other documents from an insurance broker or underwriter concerning the terms of the policy,
- Documentary evidence of sufficient assets to pay the increased premium, and
- A declaration by the member;
- As to the nature and extent of the financial hardship that will be suffered if the higher cap is not authorised,
- That insurance for the higher limited liability will be held for 10 years and undertake to notify the Institute where insurance for the higher limited liability becomes unavailable, and
- Identifying the persons and work affected by the higher cap and the risk management strategies used to control risks for the work to which the high cap will apply.

Decision making

Applications by members for exemption and higher caps will be determined by the Board of the Institute. The application must;

- Identify the applicant and their authority to apply
- Specify that the applicant is applying for an exemption from the Scheme or specify the higher amount applied for

-Specifies the reasons for the exemption or higher amount

-Include consent by the applicant for the Institute to make reasonable inquires in relation to the application and consent that the Institute may disclose information in a public register that identifies the persons to whom the exemption or higher cap applies, the amount of higher cap and the period during which it applies.

The Board will be consistent in exercising its authority in relation to exemptions or higher caps by objectively applying in each case the specified criteria. An applicant will be provided with a record of the reasons for refusing an application and may reapply.

An exemption or higher cap will apply from when it is authorised by the Board. An exemption or higher cap will apply for a specified period. A member to whom the exemption or higher cap applies may apply for a further exemption or higher cap. An exemption or higher cap ceases at the end of the period unless further granted. An exemption or higher cap will continue until the application is determined by the Board where the application is made prior to the exemption or higher cap ceasing.

The Board will determine an application for exemption or higher cap at the next meeting of the Board ordinarily occurring after the application is made, provided the application is lodged with the Institute at least 14 days before the Board meeting.

The Institute will monitor through its Compliance Program that the members maintain insurance for the higher cap.

Register

The AVI will maintain a register of members to whom the scheme applies. A record of members the Institute exempts from the Scheme and of higher caps will be kept in the register. The register will record the period during which the exemption or higher cap applies.

The register will be publicly available on the AVI website.