

Australian Capital Territory

Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme Amendment 2011 (No 1)*

Disallowable instrument DI2011–215

made under the

Civil Law (Wrongs) Act 2002, section 4.10, schedule 4 (Approval of schemes by Minister) and section 4.11, schedule 4 (Amendment and revocation of schemes)

1 Name of instrument

This instrument is the *Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme Amendment 2011 (No 1)*.

2 Commencement

This instrument commences on the day after this instrument is notified, despite anything to the contrary contained in the attached Instrument Amending the Australian Property Institute Valuers Limited Scheme.

3 Approved amendments to scheme

Pursuant to section 4.10 and section 4.11, schedule 4 of the *Civil Law (Wrongs) Act 2002* I approve the attached Instrument Amending the Australian Property Institute Valuers Limited Scheme.

Simon Corbell MLA
Attorney General
25.7.2011

*Name amended under Legislation Act, s 60

Professional Standards Act 1994 (New South Wales)
**INSTRUMENT AMENDING THE
AUSTRALIAN PROPERTY INSTITUTE VALUERS LIMITED SCHEME**

PREAMBLE

- A. The Australian Property Institute Valuers Limited (APIV) is an occupational association.
- B. The APIV Scheme (the Scheme) commenced on 1 September 2010.
- C. This instrument of amendment is prepared by the APIV for the purposes of amending the APIV Scheme.

AMENDMENT TO THE SCHEME

1. This instrument to amend the APIV Scheme is prepared under the Professional Standards Act 1994 (NSW) (the Act) by the Australian Property Institute Valuers Limited (APIV) whose business address is 6 Campion Street, DEAKIN ACT 2600.

PREAMBLE

2. Delete the existing clause 'F' of the Scheme and in its place insert the following:

"F The scheme is intended to remain in force for five (5) years from its commencement unless, prior to that time, it is revoked, its operation ceases, or it is extended pursuant to Section 32 of the Act."

JURISDICTION

3. Delete the existing clause 1.2 of the Scheme and in its place insert the following:

"1.2 The scheme is intended to operate in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, South Australia, Victoria and Western Australia."

PERSONS TO WHOM THE SCHEME APPLIES

4. Amend APIV Limited Scheme Document Clause 2.1 Persons to Whom the Scheme Applies to read as follows;

2.1 The scheme applies to all members of the Australian Property Institute Valuers Limited who or which comply with the requirements of the APIV Limited and the insurance requirements set out in Clause 3.2, unless exempted by the APIV.

5. Replace "\$2,000,000" in Clause 3.1 with "\$1,000,000".

6. Amend APIV Limited Scheme Document table at Clause 3.3 by inserting a new Category 'A' Member (and consequently renumbering existing Classes and membership categories), and deleting the "Maximum Excess" column, to read as follows;

Class	Description	Upper End Value	Monetary Ceiling
1	Category A Member	\$0.0 million to < \$3.0 million	\$1.0 million
2	Category B Member	\$3.0 million to < \$5.0million	\$ 2.0 million
3	Category C Member	\$5.0 million to < \$10.0 million	\$ 3.0 million
4	Category D Member	\$10.0 million to < \$15.0 million	\$ 4.0 million
5	Category E Member	\$15.0 million to < \$40.0 million	\$ 5.0 million
6	Category F Member	\$40.0 million >	\$10.0 million

7. Delete the existing clause 3.2 of the Scheme and in its place insert the following:

"3.2 If a person or corporation, who was at the time of the act or omission giving rise to occupational liability, a person or corporation to whom this scheme applied and against whom a proceeding relating to occupational liability is brought, is able to satisfy the court that such person or corporation has the benefit of an insurance policy:

- (a) of a kind which complies with the APIV Insurance Standards,
- (b) insuring such person or corporation against the occupational liability to which the cause of action relates, and
- (c) under which the amount payable in respect of that occupational liability is not less than the monetary ceiling specified in the 4th column (titled "Monetary Ceiling") of the table in Clause 3.3 of this scheme relating to the class of person and the kind of work to which the cause of action relates,

that person or corporation is not liable in damages in relation to that cause of action above the monetary ceiling specified in this scheme."

8. Amend APIV Limited Scheme Document Clause 5 Definitions (Categories of membership definitions) to read as follows;

"**Category A Member**" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is less than \$3 million;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is less than \$3 million; or
- c) a corporation whose Upper End of Value is less than \$3 million;

"**Category B Member**" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is \$3 million or more but less than \$5 million;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is \$3 million or more but less than \$5 million; or
- c) a corporation whose Upper End of Value is \$3 million or more but less than \$5 million;

"**Category C Member**" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is \$5 million or more but less than \$10 million;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is \$5 million or more but less than \$10 million; or
- c) a corporation whose Upper End of Value is \$5 million or more but less than \$10 million.

"Category D Member" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is \$10 million or more but less than \$15 million;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is \$10 million or more but less than \$15 million; or
- c) a corporation whose Upper End of Value is \$10 million or more but less than \$15 million.

"Category E Member" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is \$15 million or more but less than \$40 million;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is \$15 million or more but less than \$40 million; or
- c) a corporation whose Upper End of Value is \$15 million or more but less than \$40 million.

"Category F Member" means a person who is a member of APIV Limited to whom the scheme applies and who is:

- a) a sole trader whose Upper End of Value is \$40 million or more;
- b) an individual or corporation who is a member of a partnership whose Upper End of Value is \$40 million or more; or
- c) a corporation whose Upper End of Value is \$40 million or more.

COMMENCEMENT

9. The amendment will commence on 1 July 2011.