

Australian Capital Territory

Civil Law (Wrongs) RICS Valuers Ltd Scheme 2015 (No 1)

Disallowable instrument DI2015–329

made under the

Civil Law (Wrongs) Act 2002, section 4.10, schedule 4 (Schemes are subject to disallowance)

1 Name of instrument

This instrument is the *Civil Law (Wrongs) RICS Valuers Limited Scheme 2015 (No 1)*.

2 Commencement

This instrument commences 1 January 2016.

3 Notice

I give notice of the Professional Standards Council of New South Wales' approval of the attached RICS Valuers Limited Scheme, which has effect until 31 December 2020.

Simon Corbell
Attorney-General
18 December 2015

THE RICS VALUERS LTD SCHEME

A Scheme under
the *Professional Standards Act 1994 (NSW)*

PREAMBLE

- A. The RICS Valuers Limited (RICSV Ltd) is an occupational association.
- B. The RICSV Ltd has made an application to the Professional Standards Council, constituted by the *Professional Standards Act 1994 (NSW)* (the Act), for a scheme under the Act.
- C. The scheme is prepared by the RICSV Ltd for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.
- D. The RICSV Ltd has furnished the Council with a detailed list of the risk management strategies intended to be implemented in respect of its members and the means by which those strategies are intended to be implemented.
- E. The scheme is intended to commence on 1 January 2016 and 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.
- F. The scheme is intended to apply in NSW, Victoria, South Australia, the Australian Capital Territory, the Northern Territory, Queensland and Western Australia.

THE RICS VALUERS LTD SCHEME

1. Occupational Association

1.1 The RICSV Ltd Scheme (the scheme) is a scheme under the *Professional Standards Act 1994* (NSW) (the Act) prepared by the RICS Valuers Ltd (RICSV Ltd) whose business address is: Suite 1, Level 9, 1 Castlereagh Street, SYDNEY NSW 2000.

2. Persons to Whom the Scheme Applies

2.1 The scheme applies to all members of RICS Valuers Ltd.

2.2 This scheme also applies to all persons to whom the scheme applied under clause 2.1 at the time of any act or omission giving rise to occupational liability.

3. Limitation of liability

3.1 This scheme only affects the liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding \$1,000,000.

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

(a) of a kind which complies with the standards determined by the RICSV Ltd

(b) insuring such person against that occupational liability, and

(c) under which the amount payable in respect of that occupational liability is not less than the monetary ceiling specified in this scheme.

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

3.3 The monetary ceiling (maximum amount of liability) required for the purposes of limitation of liability under this scheme at the time at which the act or omission giving rise to the cause of action occurred is to be determined according to the following table:

Class	Description	Band	Monetary Ceiling

1	Property Value A	\$0.00 million to < \$3million	\$1.0 million
2	Property Value B	\$3.0 million to < \$5 million	\$2.0 million
3	Property Value C	\$5 million to < \$10 million	\$3.0 million
4	Property Value D	\$10 million to < \$20 million	\$4.0 million

For properties valued at above \$20 million the ceiling will be 20% of the value of the property on the day of the valuation, up to \$10 million.

- 3.4 Clause 3.2 only affects liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding such amount as is specified in clause 3.1.
- 3.5 This scheme limits the occupational liability in respect of a cause of action founded on an act or omission occurring during the period when the scheme was in force of any person to whom the scheme applied at the time the act or omission occurred.
- 3.6 Notwithstanding anything to the contrary contained in this Scheme if, in particular circumstances giving rise to occupational liability, the liability of any person who is subject to this Scheme should be capped both by this Scheme and also by any other Scheme under Professional Standards Legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap on the liability of such persons arising from such circumstances which is higher shall be the applicable cap.

4. **Conferral of discretionary authority**

- 4.1 Pursuant to section 24 of the Act, this scheme confers to the RICS Valuers Ltd a discretionary authority to specify, on application by a person to whom the scheme applies, in relation to that person a higher monetary ceiling (maximum amount of liability) not exceeding \$20 million, in relation to the person either in all cases or in any specified case or class or case.

5 **Duration**

- 5.1 This scheme will be in force for a period of 5 years from the date of commencement.

6 Definitions

6.1 Relevant definitions for the purposes of the scheme are as follows:

“RICSV” means the RICS Valuers Ltd

“RICSV Insurance standards” mean the insurance standards approved by the RICSV from time to time

“the Act” means the *Professional Standards Act 1994* (NSW)

“Property Value” means the value of a property as at the date of the valuation as determined under Market Value as defined by the International Valuation Standards Council (IVSC)

“Market Value” means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
