

Civil Law (Wrongs) Institute of Public Accountants Professional Standards Scheme 2017

Disallowable instrument DI2017- 254

made under the

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

1 Name of instrument

This instrument is the *Civil Law (Wrongs) Institute of Public Accountants Professional Standards Scheme 2017*.

2 Commencement

This instrument commences on the day after its notification day.

3 Notice

- (1) I give notice of the Professional Standards Council of New South Wales (NSW) approval of the attached Institute of Public Accountants Professional Standards Scheme (the *scheme*).
- (2) The scheme is in force for the period beginning on the commencement of this instrument and ending on 31 December 2018.
- (3) Subsection (2) applies despite anything to the contrary in the scheme (including clauses 5 and 6).

Gordon Ramsay MLA
Attorney-General
18 October 2017

Professional Standards Act 1994 (NSW)

**THE INSTITUTE OF PUBLIC ACCOUNTANTS
PROFESSIONAL STANDARDS SCHEME**

PREAMBLE

- A. The Institute of Public Accountants (IPA) is an occupational association.
- B. The IPA has made an application to the Professional Standards Council, appointed under the *Professional Standards Act 1994 (NSW)* (the Act), for a scheme under the Act.
- C. The scheme is prepared by the IPA for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.
- D. The scheme propounded by the IPA is to apply to all members of the IPA who hold a current Public Practice Certificate issued by the IPA, and who are not otherwise excluded.
- E. The IPA 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.
- F. The scheme is intended to commence on 1 January 2013 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 s32 the Act.
- G. The scheme is intended to apply in New South Wales, the Australian Capital Territory, Victoria, Tasmania, South Australia, Western Australia, the Northern Territory, and Queensland, under the mutual recognition provisions of the Act and the respective professional standards legislation of the other jurisdictions.

**THE INSTITUTE OF PUBLIC ACCOUNTANTS
PROFESSIONAL STANDARDS SCHEME**

1. Occupational association

- 1.1 The Institute of Public Accountants Professional Standards Scheme (the scheme) is a scheme under the *Professional Standards Act 1994 (NSW)* (the Act) prepared by the Institute of Public Accountants (IPA) whose business address is: Level 6, 555 Lonsdale Street, Melbourne, Victoria, 3000.

2. Persons to Whom the Scheme Applies

- 2.1 The scheme applies to all members of the IPA who hold a current Public Practice Certificate issued by the IPA, and who are not otherwise excluded.
- 2.2 No person to whom the scheme applies may be exempted from the scheme other than a person who, on application to the IPA Board of Directors, is able to

satisfy the Board that he/she is also a participating member of another occupational association that is covered by a scheme limiting liability and has not opted out of that scheme.

- 2.3 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.
- 2.4 The scheme does not apply to financial services licensees.
- 2.5 The scheme applies to all person to whom the scheme applies by virtue of ss.18-20 of the Act and the corresponding sections of the relevant interstate laws.

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 IPA,
 - (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 is \$1,000,000.
- 3.4 Clause 3.2 does not limit the amount of damages to which a person to whom the scheme applies is liable if the amount is less than the amount specified for the purpose in this scheme in relation to a person to whom the scheme applies.
- 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 person arising from such circumstances which is higher shall be the applicable cap.

4. Conferral of Discretionary Amount

- 4.1 Pursuant to s24 of the Act this scheme confers on IPA 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 \$20,000,000 in relation to that person either in all cases or in any specified case or class of case.

5 Duration

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

6 Commencement

- 6.1 This scheme will commence on 1 January 2013. In the event the Scheme, or a Notice relating to the Scheme, is published in the Government Gazette after 1 January 2013, the Scheme will commence on such day 2 months after the date of its publication.

7 Jurisdiction

- 7.1 The scheme will apply in New South Wales and the Australian Capital Territory, Victoria, Tasmania, South Australia, Western Australia, the Northern Territory, and Queensland, pursuant to the mutual recognition provisions of the Act and the corresponding laws of each of those jurisdictions respectively.