

Australian Capital Territory

Civil Law (Wrongs) Law Society of South Australia Professional Standards Scheme Amendment 2017

Disallowable instrument DI2017– 290

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) Law Society of South Australia Professional Standards Scheme Amendment 2017*.

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 Law Society of South Australia Professional Standards Scheme.

3 Notice

I give notice of the Professional Standards Council of South Australia's approval of the attached amended Law Society of South Australia Professional Standards Scheme.

Gordon Ramsay MLA
Attorney-General
7 December 2017

**INSTRUMENT AMENDING THE LAW SOCIETY OF SOUTH AUSTRALIA
PROFESSIONAL STANDARDS SCHEME**
Professional Standards Act 2004 (SA)

PREAMBLE

- A. The Law Society of South Australia (“the Society”) is an occupational association
- B. The Law Society of South Australia Professional Standards Scheme (“the Scheme”) commenced on 1 July 2017.
- C. This instrument of amendment is prepared by the Society for the purposes of amending the Scheme to allow for mutual recognition of the Scheme in Tasmania.

AMENDMENT TO THE SCHEME

- 1. This instrument to amend the Law Society of South Australia Professional Standards Scheme is prepared pursuant to section 18 of the *Professional Standards Act 2004 (SA)* by the Law Society of South Australia, whose business address is Level 10, Terrace Towers, 178 North Terrace, Adelaide, SA, 5000.

Operation of the Scheme in multiple jurisdictions

- 1.1 Amend recital G of the Preamble to delete the phrase “except Tasmania.”
- 1.2 Amend clause 3.2 in the Scheme to insert the word “Tasmania,” between the words “Western Australia,” and “the ACT” thus:

The Scheme applies in New South Wales, Victoria, Queensland, Western Australia, Tasmania, the ACT and the Northern Territory pursuant to the corresponding laws of each of those jurisdictions respectively.

Definitions

- 1.3 In clause 1 in the Scheme, delete the following references to the discretionary authority to specify a higher amount of liability from the definition “Monetary Ceiling”, thus:
 - 1.3.1 Delete the phrase “(a) the higher of”; and
 - 1.3.2 Delete the paragraph “OR (b) such higher amount as has been specified in relation to a specified Scheme Participant in respect of such case or class of case or generally as has been specified by the Society pursuant to clause 5.1;”.

Conferral of discretionary authority

- 1.4 Amend clause 5.1 in the Scheme to delete the words “Monetary Ceiling” from the final phrase of the paragraph and replace with the word “amount”, thus:

The Scheme confers on the Society a discretionary authority, on application by a Scheme Participant, to specify in relation to the person a higher maximum amount of liability than would otherwise apply under the Scheme in relation to the person either in all cases or in any specified case or class of case, being a specified amount not exceeding \$50 million.

Limitation of liability

- 1.5 Amend clause 6.4 in the Scheme to insert the phrase “and the Acts” between the words “Scheme” and “applies” in the first line of the paragraph, thus:

The limitation of liability that, in accordance with this Scheme and the Acts, applies in respect of an act or omission continues to apply to every cause of action founded on it, irrespective of when the proceedings are brought in respect of it, and even if the Scheme has been amended or has ceased to be in force.

- 1.6 Amend clause 6.5 in the Scheme to insert the phrase “and corresponding provisions” between the words “the Act” and “the Scheme” in the first line of the paragraph, thus:

For the purposes of section 28 of the Act and corresponding provisions, the Scheme only affects a liability for damages arising from a Single Claim (including a claim by a person who has 2 or more causes of action arising out of a single event) exceeding \$1,500,000.

Duration of the Scheme

- 1.7 Amend clause 7.1 in the Scheme to insert the following text after the date “1 July 2017”:

except in relation to its application to Tasmania in which case the Scheme will commence on the date which is 2 months after the date of its publication in the Government Gazette of Tasmania.

COMMENCEMENT

- 2 The amendments to the Scheme made by this instrument will commence 2 months after the date of its publication in the Gazette.