

Australian Capital Territory

Civil Law (Wrongs) New South Wales Bar Association Scheme Amendment 2018*

Disallowable instrument DI2018–5

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) New South Wales Bar Association Scheme Amendment 2018*.

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 New South Wales Bar Association Scheme.

3 Notice

I give notice of the New South Wales Professional Standards Council's approval of the attached amendment to the New South Wales Bar Association Scheme.

Gordon Ramsay MLA
Attorney-General

15 January 2018

*Name amended under Legislation Act, s 60

The New South Wales Bar Association Scheme

Professional Standards Act 1994 (NSW)

Instrument Amending the New South Wales Bar Association Scheme

PREAMBLE

- A. The New South Wales Bar Association (ACN 000 033 652) is an Occupational Association and Australian Public Company, Limited by Guarantee.
- B. The New South Wales Bar Association Scheme (the Scheme) commenced on 1 July 2015.
- C. This instrument of amendment is prepared by the New South Wales Bar Association for the purposes of amending its scheme to allow for mutual recognition of its scheme in Tasmania.

AMENDMENT TO THE SCHEME

1. This instrument to amend the New South Wales Bar Association Scheme is prepared pursuant to the Professional Standards Act 1994 (NSW) (the Act) by the New South Wales Bar Association whose business address is Selborne Chambers, 174 Phillip Street, Sydney NSW 2000.

PREAMBLE

In the second sentence of the first paragraph delete the word 'current' between the words 'Association's' and 'Scheme' and change the year from '2010' to '2015'.

In the last sentence of the second paragraph change the number '2100' to '2200'.

In the last sentence of the first paragraph under the heading 'Nature and operation of the scheme', delete the word 'and' and add a comma between the words 'Western Australia' and 'South Australia' and insert the words 'and Tasmania' at the end of the sentence.

Delete the existing paragraph under the heading 'complaints and discipline' and, in its place, insert the following:

Scheme members are subject to a complaints and discipline system operating under the *Legal Profession Uniform Law* (NSW), the *Legal Profession Uniform Conduct (Barristers) Rules 2015*, the *Legal Profession Uniform Law Application Act 2014* (LPULAA) and Regulations thereunder. All scheme members must comply with this legislation.

At the end of the sentence in the paragraph headed ‘scheme administration’ substitute the words ‘Policy Lawyer’ with the words ‘Senior Projects Lawyer’.

THE NEW SOUTH WALES BAR ASSOCIATION SCHEME

In the name of the Scheme, insert the words “Professional Standards” between the words “Association” and “Scheme”, thus:

THE NEW SOUTH WALES BAR ASSOCIATION PROFESSIONAL STANDARDS SCHEME

Under paragraph 1 ‘Occupational Association’ delete the word ‘and’ and add a comma between the words ‘Western Australia’ and ‘South Australia’ and insert the words ‘and Tasmania’ at the end of the sentence.

In clauses 2.3.2 and 2.3.3 delete the word ‘and’ and add a comma between the words ‘Western Australia’ and ‘South Australia’ and insert the words ‘and Tasmania’ at the end of the sentence.

After clause 3.3, insert a new clause 3.4, thus:

- 3.3 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.

Delete the existing paragraph 4.1 of the Scheme and, in its place, insert the following:

- 4.1 The scheme commenced on 1 July 2015 in New South Wales, the Australian Capital Territory, Northern Territory, Queensland, Victoria, Western Australia and South Australia and is to remain in force in those jurisdictions until 30 June 2020 unless:

Delete the existing paragraph 4.2 of the Scheme and, in its place, insert the following:

- 4.2 The scheme will commence in Tasmania 2 months after the date of its publication in the Gazette of Tasmania and is to remain in force until 30 June 2020, unless it is earlier revoked or ceases to have effect or its period of operation is extended for a period of up to 12 months, or it ceases to have effect in New South Wales.

COMMENCEMENT

The amendments to the scheme will commence 2 months after its publication in the Gazette.