

Australian Capital Territory

Civil Law (Wrongs) Law Institute of Victoria Limited Scheme 2016 (No 1)

Disallowable instrument DI2016–16

made under the

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

EXPLANATORY STATEMENT

Professional Standards Legislation (PSL) was developed on a national basis following the insurance crisis of 2002.

PSL, which has been passed by all States and Territories, involves a trade-off whereby professionals have their negligence liability for economic loss capped in return for a commitment to higher standards of service delivery, monitored by a professional standards council operating on a national basis.

In 2004, the ACT passed its own PSL, which was incorporated as schedule 4 of the *Civil Law (Wrongs) Act 2002* ('the Act'). Schedule 4, section 4.10 of the Act provides that the Attorney-General must give notice of an interstate scheme submitted by the appropriate council for the jurisdiction in which the scheme was prepared.

This instrument gives notice of the ACT Professional Standards Council's endorsement of the *Law Institute of Victoria Limited Scheme* (the Scheme).

The Scheme commences on 1 July 2016 and will remain in force for five years (to 30 June 2021) unless the scheme is revoked, extended, or its operation ceases. It replaces an existing scheme (DI2013-48), which is due to expire on 30 June 2016.

The Scheme limits the occupational liability of members of the Law Institute of Victoria Limited (LIV) in relation to the provision of legal services, to an amount of \$1.5 million or \$10 million, depending on the insurance policy or policies, total annual fees or the number of principals of the law practice of the member or the Incorporated Legal Practice member. The Scheme also confers a discretionary authority on the LIV, on application by a member, to approve a higher maximum amount of liability in relation to that member.

The Scheme has been developed in Victoria under the *Professional Standards Act 2003* (Vic) by the LIV, a professional association for solicitors that represents over 19,000 lawyers and people working in the law in Victoria, interstate and overseas. The Scheme is intended to operate by mutual recognition in New South Wales, the ACT, South Australia, Western Australia, the Northern Territory and Queensland.

All required processes under the *Professional Standards Act 2003* (Vic) and the Act, including the prescribed period of public notification and submission by the ACT Professional Standards Council to the ACT Attorney-General, were observed in the development of the Scheme.