

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)**

## EXPLANATORY STATEMENT

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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). Section 4.10, schedule 4 of the Act provides that the Minister may approve an interstate scheme submitted by the appropriate council for the jurisdiction in which the scheme was prepared.

The New South Wales Bar Association (NSW Bar) is a voluntary association of practising barristers. The NSW Bar prepared the New South Wales Bar Association Scheme (the scheme) for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.

The scheme was approved by the ACT Minister and is the subject of the following disallowable instrument – *Civil Law (Wrongs) New South Wales Bar Association Scheme 2010* (No 1) DI2015-92, notified on 1 July 2015.

Amendments to the scheme have been submitted by the New South Wales Professional Standards Council (the NSW Council) to the ACT Minister in accordance with the requirements under section 12 of the NSW *Professional Standards Act 1994* (the NSW Act) and the requirements under the Act. The main amendment to the scheme is the addition of Tasmania to the list of jurisdictions in which the scheme operates.

The amendments also make some minor drafting changes to the scheme, accommodating changes to NSW legislation that affect the regulation of the legal profession in that state, and to provide that a NSW barrister may participate in another scheme with a higher applicable cap.

The amendments to the scheme submitted by the NSW Council have been approved by the ACT Minister and this instrument evidences the approved amendments. The amendments to the scheme apply in the ACT on the day after notification of this instrument (despite anything in the amending instrument).

The scheme will remain in force for a period of 5 years from 1 July 2015 unless it is revoked, extended or otherwise ceases in accordance with section 32 of the NSW Act.