

Australian Capital Territory

Civil Law (Wrongs) New South Wales Bar Association Scheme Amendment 2012 (No 1)

Disallowable instrument DI2012–19

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 2012 (No 1)*.*

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 NSW Bar Association Scheme.

3 Approved amendments to scheme

Pursuant to section 4.10 and section 4.11, schedule 4 of the *Civil Law (Wrongs) Act 2002* I approve the attached Instrument Amending the NSW Bar Association Scheme.

Simon Corbell MLA
Attorney-General
21 February 2012

*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's Scheme (the Scheme) commenced on 1 July 2010.
- 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 South Australia.

INSTRUMENT AMENDING A 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

Delete the existing first paragraph and in its place insert the following:

The New South Wales Bar Association (CAN 000 033 652) is an Australian Public Company, Limited by Guarantee. The Association's Scheme commenced on 1 July 2010.

Delete the existing first paragraph under the heading 'Nature and operation of the scheme' and in its place insert the following:

The Scheme operates for the purpose of improving the occupational standards of barristers and to protect the consumers of their services. The Scheme limits the civil liability of barristers to whom it applies. The Scheme is intended to operate in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia and South Australia.

Delete the existing paragraph under the heading 'Scheme Administration' and in its place insert the following:

Responsibility for administration of the scheme and ensuring that it complies with the requirements of the *Professional Standards Act 1994 (NSW)* and of

the Professional Standards Council rests with the Executive Director; who is assisted on a day to day basis by the Association's Policy Lawyer.

Delete the existing paragraph under the heading 'Duration' and in its place insert the following:

The scheme will remain in force for a period of 5 years from 1 July 2010 unless it is revoked, extended or ceases in accordance with section 32 of the Professional Standards Act.

THE SCHEME

Delete the existing paragraph 1.1 of the Scheme and in its place insert the following:

- 1.1** The New South Wales Bar Association Scheme (the scheme) is a scheme under the *Professional Standards Act 1994 (NSW)* (the Act) of the New South Wales Bar Association (the Bar Association) whose business address is Selborne Chambers, 174 Phillip Street, Sydney. The scheme applies in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia and South Australia.

Delete the existing paragraph 3.2 of the Scheme and in its place insert the following:

- 3.2** For the purposes of the operation of the scheme in NSW 'occupational liability' has the same meaning as it has in the Act and excludes any liability which may not from time to time be limited pursuant to the Act. Similarly, for the purposes of the operation of the scheme in other jurisdictions in which it applies i.e. ACT, Northern Territory, Queensland, Victoria, Western Australia and South Australia, 'occupational liability' has the same meaning as it has in the corresponding legislation of those jurisdictions and excludes any liability which may not from time to time be limited pursuant to that legislation.

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

- 4.2** The scheme will remain in force for a period of five years from its commencement in the ACT, Northern Territory, Queensland, Victoria, Western Australia and South Australia, unless it is extended, terminated or otherwise ceases in accordance with the law of each of those respective jurisdictions.

Delete the existing paragraph 5.1 of the Scheme and in its place insert the following:

- 5.1** The scheme commenced as follows:
- 5.1.1** 1 July 2010 in New South Wales, the ACT and Western Australia;
 - 5.1.2** 19 October 2010 in Victoria;
 - 5.1.3** 1 November 2010 in Northern Territory;
 - 5.1.4** 17 February 2011 in Queensland; and
 - 5.1.5** 2 months after the date of its publication in the Gazette in South Australia.

COMMENCEMENT

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