

Australian Capital Territory

Civil Law (Wrongs) Australian Computer Society Professional Standards Scheme 2015 (No 1)

Disallowable instrument DI2015–330

made under the

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

1 Name of instrument

This instrument is the *Civil Law (Wrongs) Australian Computer Society Professional Standards Scheme 2015 (No 1)*.

2 Commencement

This instrument commences 1 January 2016.

3 Notice

I give notice of the Professional Standards Council of New South Wales' approval of the attached Australian Computer Society Professional Standards Scheme, which has effect until 31 December 2017.

Simon Corbell
Attorney-General
18 December 2015

THE AUSTRALIAN COMPUTER SOCIETY PROFESSIONAL STANDARDS SCHEME

A Scheme under
the *Professional Standards Act 1994 (NSW)*

PREAMBLE

- A. The Australian Computer Society (ACS) is an occupational association.
- B. The ACS has made an application to the Professional Standards Council, appointed under the Professional Standards Act 1994 (NSW) (the Act), for a scheme under the Act.
- C. The scheme is prepared by the ACS for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.
- D. The scheme propounded by the ACS is to apply to Certified Computer Professionals (CCP) of the ACS.
- E. The ACS has furnished the Council with a detailed list of the risk management strategies intended to be implemented in respect of its members and the means by which those strategies are intended to be implemented.
- F. The scheme is intended to commence on 1st January 2016 and remain in force for two (2) years from its commencement unless, prior to that time, it is revoked, its operation ceases, or it is extended pursuant to section 32 of the Act.
- G. The scheme is also intended to apply under the mutual recognition provisions of the Professional Standards Legislation, in Victoria, Queensland, Western Australia, South Australia, the Australian Capital Territory, and the Northern Territory.

THE AUSTRALIAN COMPUTER SOCIETY PROFESSIONAL STANDARDS SCHEME

1. Occupational Association

1.1 The Australian Computer Society Professional Standards Scheme (the scheme) is a scheme under the Act prepared by the Australian Computer Society Inc (ACS) whose national office address is Level 11, 50 Carrington Street, Sydney, NSW, 2000.

2. Persons to Whom the Scheme Applies

2.1 The scheme will apply to ACS members who qualify as Certified Computer Professionals unless exempted by ACS. A list of Certified Computer Professionals will be published on the ACS web site.

2.2 This scheme also applies to all persons to whom the scheme applied under clause 2.1 at the time of any act or omission giving rise to occupational liability.

3. Limitation of liability

3.1 If a person against whom a proceeding relating to occupational liability is brought was, at the time of the act or omission giving rise to occupational liability, a person to whom the scheme applied, and is able to satisfy the court that such person has the benefit of an insurance policy:

- (a) of a kind which complies with the standards determined by the ACS,
- (b) insuring such person against that occupational liability, and
- (c) under which the amount payable in respect of that occupational liability is not less than the monetary ceiling specified in this scheme,

then that person is not liable in damages in relation to that cause of action above the monetary ceiling specified in this scheme.

3.2 Pursuant to section 24(1)(a) of the Act, the monetary ceiling is \$1.5 million.

3.3 Pursuant to section 24(1)(b) of the Act, this scheme confers on the ACS a discretionary authority to specify, on application by a person to whom the scheme applies, in relation to that person, a monetary ceiling (maximum

amount of liability) not exceeding \$10 million in relation to that person either in all cases or in any specified case or class of case

- 3.4 Pursuant to section 26 of the Act, this scheme only affects liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding such amount as is specified in clause 3.2.
- 3.5 This scheme limits the occupational liability in respect of a cause of action founded on an act or omission occurring during the period when the scheme was in force of any person to whom the scheme applied at the time the act or omission occurred.
- 3.6 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 persons arising from such circumstances which is higher shall be the applicable cap.

4. Duration

- 4.1 This scheme will be in force for a period of 2 years from the date of commencement. The date of this scheme's commencement is 1st January 2016.
 - (2) It is intended for the Scheme to remain in force in New South Wales, Queensland, South Australia, Western Australia, the Australian Capital Territory and the Northern Territory respectively until:
 - (a) that period of 5 years from its commencement ends; or
 - (b) the Scheme's operation in relation to any of those respective jurisdictions is terminated; or
 - (c) the Scheme ceases to have effect in Victoria; or
 - (d) the Scheme is disallowed under legislation of any of those respective jurisdictions.

8. Territorial application of the Scheme

- (1) The Scheme is intended to operate as a scheme of Victoria, New South

Wales, Queensland, South Australia, Western Australia, the Australian Capital Territory and the Northern Territory.
