

Australian Capital Territory

Civil Law (Wrongs) New South Wales Bar Association Scheme 2010 (No 1)

Disallowable instrument DI2010–135

made under the

Civil Law (Wrongs) Act 2002, section 4.10, Schedule 4 (Approval of schemes by Minister)

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 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 is a voluntary association of practising barristers. It has 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 is intended to operate as a scheme of New South Wales, the ACT, the Northern Territory, Queensland, Victoria, and Western Australia. The New South Wales Professional Standards Council (the NSW Council) submitted the Scheme to the ACT Minister in accordance with the requirements under the NSW *Professional Standards Act 1994* (the NSW Act) and the requirements under the ACT Act.

The Scheme submitted by the NSW Council has been approved by the ACT Minister and this instrument evidences the approved scheme. The Scheme will remain in force for a period of 5 years from commencement unless the Scheme is revoked, extended, or its operation ceases pursuant to section 32 of the NSW Act. The Scheme commences on the 1 July 2010.

A summary of the Scheme can be found in the Preamble to the Scheme (in the instrument).