

Australian Capital Territory

Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme Amendment 2011 (No 1)

Disallowable instrument DI2011–215

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

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, and 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 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 Australian Property Institute Valuers Limited (APIV) is a special purpose company established by the Australian Property Institute, whose membership is comprised of eligible property valuers. APIV prepared the Australian Property Institute Valuers Limited Scheme (the Scheme) for the purposes of limiting occupational liability to the extent to which such liability may be limited under the ACT Act.

The Scheme was approved by the ACT Minister and is the subject of the following disallowable instrument:

- Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme 2010 (No 1) DI2010-198, notified on 31 August 2010.

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 the NSW *Professional Standards Act 1994* (the NSW Act) and the requirements under the ACT Act.

In summary the amendments:

- a. add South Australia to the list of jurisdictions in which the Scheme operates;
- b. expand the operation of the scheme to corporate membership;
- c. lower the amount below which liability may not be limited under the Scheme (from \$2 million to \$1 million);
- d. split the current category with the lowest cap into two, with a lower cap applying to the lower level of valuations; and
- e. remove the levels of maximum excess that apply to each category of member under the Scheme (the levels will instead be contained in the insurance requirements allowing for variations in accordance with market conditions).

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 continue to remain in force for a period of 5 years from its original commencement (1 September 2010) unless the Scheme is revoked, extended, or its operation ceases pursuant to section 32 of the NSW Act.