

Australian Capital Territory

Civil Law (Wrongs) The Law Society of New South Wales Professional Standards Scheme 2018

Disallowable instrument DI2018-286

made under the

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

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' occupational liability for negligence is limited in return for commitments to higher standards of service delivery and insurance. These standards are monitored by a professional standards council operating on a national basis (the ACT Professional Standards Council).

In 2004, the ACT passed its own PSL, which was incorporated as schedule 4 of the *Civil Law (Wrongs) Act 2002* (the Act). Where an interstate scheme is intended to operate in the ACT, schedule 4, section 4.10 of the Act requires the Attorney-General to give notice that the scheme has been approved by the professional standards council for the jurisdiction in which the scheme was prepared. Notice of an interstate scheme is a pre-requisite to its operation by mutual recognition in the ACT and renders the scheme subject to disallowance in the ACT Legislative Assembly.

This instrument gives notice of the Professional Standards Councils' (PSC) approval of the 'The Law Society of New South Wales Professional Standards Scheme' (the LSNSW Scheme). The LSNSW commences in the ACT on 30 November 2018, and will remain in force until 21 November 2023 unless the scheme is revoked, extended, or its operation ceases.

The Law Society of New South Wales is an occupational association. The terms of the LSNSW Scheme limit a member's occupational liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding \$1.5 million. The Scheme is intended to operate by mutual recognition in the ACT, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia.

This is a new scheme developed in cooperation with the PSC. All required processes under the Professional Standards Act 2004 (NSW) and the Act, including the prescribed period of public notification and submission by the ACT Professional Standards Council to the ACT Attorney-General, were observed in the development of the Scheme.