

Australian Capital Territory

Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme Amendment 2019 (No 1)

Disallowable instrument DI2019–232

made under the

Civil Law (Wrongs) Act 2002, sch 4, s 4.14 (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, 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). Section 4.10 of schedule 4 of the Act provides that if an interstate scheme has been approved by the appropriate professional standards council for the jurisdiction, the Minister must give notice of the approval.

Australian Property Institute Valuers Limited (APIV) is an occupational association for valuers. APIV is a special purpose company established by the Australian Property Institute (API) to limit occupational liability of API members who undertake valuations of real property.

The APIV Scheme commenced on 1 September 2016 and will continue in force for five years (until 31 August 2021) under Professional Standards Legislation. It was developed in New South Wales (NSW) under the *Professional Standards Act 1994* (NSW) (the NSW PSA) by the APIV. The APIV Scheme operates in NSW under the NSW PSA and in the ACT, Victoria, South Australia, Western Australia, the Northern Territory and Queensland under mutual recognition provisions.

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

- Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme 2016 (No 1), DI2016–33, notified on 11 April 2016.

The Scheme was amended in 2017 so it applies in Tasmania. The amendment was approved by the NSW Professional Standards Council on 11 August 2017 and commenced on 10 November 2017 (Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme Amendment 2017, DI2017-266).

This Instrument amends the Scheme to introduce a ‘Low Risk Valuation’ class in the Scheme, and the APIV’s insurance standards, with an applicable cap of \$1 million in respect of each claim arising under this class, exempted from the Upper End Value mechanism. Otherwise, the caps in the Scheme remain unchanged.

The introduction of the new class is intended to address an inequity in the method used to determine the applicable cap for those members who undertake valuations that have a low incidence of claims, or produce claims of a lower quantum, measured by reference to the valuation figure.

The amendment was approved by the NSW Professional Standards Council on 12 April 2019. The amendment to the Scheme applies in the ACT the day after notification.

The Scheme will continue to remain in force until 31 August 2021 unless it is revoked, extended or its operation ceases under section 32 of the NSW Act.