

Australian Capital Territory

Civil Law (Wrongs) Australian Institute of Building Surveyors Professional Standards Scheme 2021 (No 1)

Disallowable instrument DI2021-137

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 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'). Schedule 4, section 4.10 of the Act provides that the Attorney-General must give notice of an interstate scheme submitted by the appropriate council for the jurisdiction in which the scheme was prepared.

This instrument gives notice of the ACT Professional Standards Council's endorsement of the Australian Institute of Building Surveyors Professional Standards Scheme (the Scheme).

The Scheme commences on 1 July 2021 and will remain in force for five years (to 30 June 2026) unless the scheme is revoked, extended, or its operation ceases. This is the first Professional Standards Scheme for the Australian Institute of Building Surveyors (AIBS).

The Scheme limits the occupational liability of members of the AIBS up to monetary ceilings of \$2 million for all buildings, or \$1 million for buildings under 3 storeys or 2000 square metres. The Scheme also confers discretionary authority on the AIBS, upon application by a member, to approve a monetary ceiling up to a maximum of \$10 million.

The Scheme has been developed in New South Wales under the Professional Standards Act 1994 (NSW) by the AIBS, with the intention to limit occupational liability of all practicing AIBS members. During a 12-month transition period to 1 July 2023, it is intended that all non-accredited practicing members will become accredited and eligible to participate in the Scheme or become non-practicing members of the AIBS.

The Scheme is also intended to operate by mutual recognition in Victoria, the ACT, the Northern Territory, Queensland, South Australia, and Western Australia.

All required processes under the *Professional Standards Act 1994* (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.