

PROFESSIONAL STANDARDS ACT 1997
THE NEW SOUTH WALES BAR ASSOCIATION SCHEME
Amendment

I, John Quigley MLA, Attorney General, pursuant to section 26 of the *Professional Standards Act 1997* (the Act), authorise the publication of the Instrument Amending The New South Wales Bar Association Scheme (the Scheme) submitted to me by the Professional Standards Council of New South Wales pursuant to the mutual recognition provisions of the New South Wales and Western Australian professional standards legislation. The Instrument is published with this authorisation and commences in accordance with section 27 of the Act.

Hon JOHN QUIGLEY MLA, Attorney General.

Dated: 7 December 2017.

THE NEW SOUTH WALES BAR ASSOCIATION SCHEME
Professional Standards Act 1994 (NSW)
Instrument Amending the New South Wales Bar Association Scheme

PREAMBLE

- A. The New South Wales Bar Association (ACN 000 033 652) is an Occupational Association and Australian Public Company, Limited by Guarantee.
- B. The New South Wales Bar Association Scheme (the Scheme) commenced on 1 July 2015.
- C. This instrument of amendment is prepared by the New South Wales Bar Association for the purposes of amending its scheme to allow for mutual recognition of its scheme in Tasmania.

AMENDMENT TO THE SCHEME

1. This instrument to amend the New South Wales Bar Association Scheme is prepared pursuant to the *Professional Standards Act 1994* (NSW) (the Act) by the New South Wales Bar Association whose business address is Selborne Chambers, 174 Phillip Street, Sydney NSW 2000.

PREAMBLE

In the second sentence of the first paragraph delete the word ‘current’ between the words ‘Association’s’ and ‘Scheme’ and change the year from ‘2010’ to ‘2015’.

In the last sentence of the second paragraph change the number ‘2100’ to ‘2200’.

In the last sentence of the first paragraph under the heading ‘Nature and operation of the scheme’, delete the word ‘and’ and add a comma between the words ‘Western Australia’ and ‘South Australia’ and insert the words ‘and Tasmania’ at the end of the sentence.

Delete the existing paragraph under the heading ‘complaints and discipline’ and, in its place, insert the following—

Scheme members are subject to a complaints and discipline system operating under the Legal Profession Uniform Law (NSW), the *Legal Profession Uniform Conduct (Barristers) Rules 2015*, the *Legal Profession Uniform Law Application Act 2014* (LPULAA) and Regulations thereunder. All scheme members must comply with this legislation.

At the end of the sentence in the paragraph headed ‘scheme administration’ substitute the words ‘Policy Lawyer’ with the words ‘Senior Projects Lawyer’.

THE NEW SOUTH WALES BAR ASSOCIATION SCHEME

In the name of the Scheme, insert the words “Professional Standards” between the words “Association” and “Scheme”, thus—

THE NEW SOUTH WALES BAR ASSOCIATION PROFESSIONAL STANDARDS SCHEME

Under paragraph 1 ‘Occupational Association’ delete the word ‘and’ and add a comma between the words ‘Western Australia’ and ‘South Australia’ and insert the words ‘and Tasmania’ at the end of the sentence.

In clauses 2.3.2 and 2.3.3 delete the word ‘and’ and add a comma between the words ‘Western Australia’ and ‘South Australia’ and insert the words ‘and Tasmania’ at the end of the sentence.

After clause 3.3, insert a new clause 3.4, thus—

3.4 Notwithstanding anything to the contrary contained in this scheme, if in particular circumstances giving rise to occupational liability, the liability of any person who is subject to this scheme should be capped both by this scheme and also by any other scheme under Professional Standards Legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap on the liability of such person arising from such circumstances which is higher shall be the applicable cap.

Delete the existing paragraph 4.1 of the Scheme and, in its place, insert the following—

4.1 The scheme commenced on 1 July 2015 in New South Wales, the Australian Capital Territory, Northern Territory, Queensland, Victoria, Western Australia and South Australia and is to remain in force in those jurisdictions until 30 June 2020 unless—

Delete the existing paragraph 4.2 of the Scheme and, in its place, insert the following—

4.2 The scheme will commence in Tasmania 2 months after the date of its publication in the Gazette of Tasmania and is to remain in force until 30 June 2020, unless it is earlier revoked or ceases to have effect or its period of operation is extended for a period of up to 12 months, or it ceases to have effect in New South Wales.

COMMENCEMENT

The amendments to the scheme will commence 2 months after its publication in the Gazette.

PREAMBLE

OCCUPATIONAL ASSOCIATION

The New South Wales Bar Association (ACN 000 033 652) is an Australian Public Company, Limited by Guarantee. The Association's Scheme commenced on 1 July 2015. The NSW Bar Association's website is www.nswbar.asn.au

The occupational group represented by the Association is barristers holding a New South Wales practising certificate. The Scheme only applies to barristers who hold a New South Wales practising certificate, who are members of the Association and who hold approved professional indemnity insurance as provided for in the Scheme. The number of members eligible to be covered by the Scheme is approximately 2200.

The Association's objectives are outlined in clause 3 of the Constitution and include—

- to promote the administration of justice;
- to promote, maintain and improve the interests and standards of local practising barristers;
- to make recommendations with respect to legislation, law reform, rules of court and the business and procedure of courts;
- to seek to ensure that the benefits of the administration of justice are reasonably and equally available to all members of the community;
- to arrange and promote continuing legal education;
- to promote fair and honourable practice amongst barristers; to suppress, discourage and prevent malpractice and professional misconduct;
- to inquire into questions as to professional conduct and etiquette of barristers;
- to confer and cooperate with bodies in Australia or elsewhere representing the profession of the law;
- to encourage professional, educational, cultural and social relations amongst the members of the Bar Association; and
- to make donations to charities and such other objects in the public interest as determined from time to time by the Bar Council.

NATURE AND OPERATION OF THE SCHEME

The Scheme operates for the purpose of improving the occupational standards of barristers and to protect the consumers of their services. The Scheme limits the civil liability of barristers to whom it applies. The Scheme is intended to operate in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia, South Australia and Tasmania.

The liability limited by the Scheme includes, to the extent permitted by the Act, all civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of the Association or to any person to whom the Scheme applies in acting in the performance of his or her occupation. The Scheme does not apply to liability for damages arising from any matter to which the Act does not apply, including, but not limited to, liability for damages arising from death or personal injury to a person, a breach of trust, fraud or dishonesty.

The Scheme does not affect damages which are below \$1.5 million. The Scheme limits liability for damages to \$1.5 million provided the person has insurance which is not less than \$1.5 million. To date, there has never been a successful claim against a NSW barrister that has reached \$1.5 million in damages.

RISK MANAGEMENT

The Association has adopted many risk management strategies, including—

- requirements for professional entry to practice at the Bar;
- continuing professional development in the areas of ethics and regulation of the profession; management; substantive law, practice and procedure, and evidence, advocacy, mediation and other barristers' skills;
- codes of ethical conduct;
- technical standards and guidance;
- advisory and support services;
- complaints and discipline systems; and
- claims monitoring.

The Bar Association will continue to report annually on the implementation and monitoring of its risk management strategies, the effect of those strategies and any changes made or proposed to be made to them.

COMPLAINTS AND DISCIPLINE

Scheme members are subject to a complaints and discipline system operating under the Legal Profession Uniform Law (NSW), the *Legal Profession Uniform Conduct (Barristers) Rules 2015*, the *Legal Profession Uniform Law Application Act 2014* (LPULAA) and Regulations thereunder. All scheme members must comply with this legislation.

STANDARDS OF INSURANCE

Scheme members are required to have approved professional indemnity insurance before they are issued with a practising certificate. The NSW Attorney General determines the statutory minimum level of professional indemnity insurance required to be taken out by barristers and approves the professional indemnity insurance policies on offer by brokers each year. The professional indemnity insurance taken out by NSW barristers covers them for liability in all Australian States and Territories.

CLAIMS MONITORING

The Association will continue to request that the Attorney General's Order approving the policies for NSW barristers each year requires that the brokers/insurers provide the Association with claims data so that the Association can continue to monitor claims made against its members. The Association will continue to maintain its long-established relationship with the insurers. The Bar Association will continue to report annually to the Professional Standards Council on claims monitoring, tactics, performance measures and monitoring systems.

SCHEME ADMINISTRATION

Responsibility for administration of the scheme and ensuring that it complies with the requirements of the *Professional Standards Act 1994* (NSW) and of the Professional Standards Council rests with the Executive Director; who is assisted on a day to day basis by the Association's Senior Projects Lawyer.

DURATION

The scheme will remain in force for a period of 5 years from 1 July 2015 unless it is revoked, extended or ceases in accordance with section 32 of the Professional Standards Act.

THE NEW SOUTH WALES BAR ASSOCIATION PROFESSIONAL STANDARDS SCHEME

Professional Standards Act 1994 (NSW)

1. Occupational Association

The New South Wales Bar Association (the Bar Association) is an occupational association whose business address is Selborne Chambers, 174 Phillip Street, Sydney. The New South Wales Bar Association Scheme (the scheme) is a scheme under the *Professional Standards Act 1994* (NSW) (the Act). The scheme applies in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia, South Australia and Tasmania.

2. Persons to Whom the Scheme Applies (Participating Members and Other Persons)

2.1 The scheme applies to persons referred to in clause 2.2 and clause 2.3 of this scheme.

2.2 All members of the Bar Association who hold a NSW barrister's practising certificate issued by the Bar Association and who have professional indemnity insurance that is required under law to be held by New South Wales barristers in order to practise.

2.3 Persons to whom the scheme applies—

2.3.1 In New South Wales by virtue of sections 18, 19, 20 and 20A of the Act; and

2.3.2 In the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia, South Australia and Tasmania by virtue of the comparable provisions to sections 18 and 19 of the Act in the corresponding legislation of those jurisdictions; and

2.3.3 In the Australian Capital Territory, the Northern Territory, Victoria, Western Australia, South Australia and Tasmania by virtue of the comparable provision to section 20 of the Act in the corresponding legislation of those jurisdictions; and

2.3.4 In Queensland by virtue of section 21A of the *Professional Standards Act 2004* (Qld), and in Western Australia by virtue of section 34A of the *Professional Standards Act 1997* (WA).

3. Limitation of Liability

3.1 Subject to clause 3.3 below, a person to whom the scheme applies against whom a cause of action relating to occupational liability is brought, is not liable in damages in relation to that cause of action for anything done or omitted on or after the commencement of the scheme above a monetary ceiling (a maximum amount of liability) of \$1,500,000.

3.2 For the purposes of the operation of the scheme in NSW 'occupational liability' has the same meaning as it has in the Act and excludes any liability which may not from time to time be limited pursuant to the Act. Similarly, for the purposes of the operation of the scheme in other jurisdictions in which it applies i.e. ACT, Northern Territory, Queensland, Victoria, Western Australia, South Australia and Tasmania, 'occupational liability' has the same meaning as it has in the corresponding

legislation of those jurisdictions and excludes any liability which may not from time to time be limited pursuant to that legislation.

3.3 The person to whom the scheme applies must be able to satisfy the court that they have the benefit of—

3.3.1 an insurance policy insuring them against that occupational liability, and

3.3.2 an insurance policy under which the amount payable in respect of the occupational liability relating to that cause of action is not less than the maximum amount of liability specified in the scheme in relation to the person to whom the scheme applies and the kind of work to which the cause of action relates at the time at which the act or omission giving rise to the cause of action occurred.

3.4 Notwithstanding anything to the contrary contained in this scheme, if in particular circumstances giving rise to occupational liability, the liability of any person who is subject to this scheme should be capped both by this scheme and also by any other scheme under Professional Standards Legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap on the liability of such person arising from such circumstances which is higher shall be the applicable cap.

4. Commencement and Duration

4.1 The scheme commenced on 1 July 2015 in New South Wales, the Australian Capital Territory, Northern Territory, Queensland, Victoria, Western Australia and South Australia and is to remain in force in those jurisdictions until 30 June 2020 unless—

4.1.1 in the case of New South Wales, in accordance with section 32 of the Act it is earlier revoked or ceases to have effect or its period of operation is extended for a period of up to 12 months; or

4.1.2 in so far as the scheme operates in the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia and South Australia, in accordance with the law of those jurisdictions its operation in those jurisdictions is earlier revoked or ceases to have effect or its period of operation is extended for a period of up to 12 months, or it ceases to have effect in New South Wales.

4.2 The scheme will commence in Tasmania 2 months after the date of its publication in the Gazette of Tasmania and is to remain in force until 30 June 2020, unless it is earlier revoked or ceases to have effect or its period of operation is extended for a period of up to 12 months, or it ceases to have effect in New South Wales.

PROFESSIONAL STANDARDS ACT 1997

THE CPA AUSTRALIA LTD PROFESSIONAL STANDARDS (ACCOUNTANTS) SCHEME

I, John Quigley MLA, Attorney General, pursuant to section 26 of the *Professional Standards Act 1997* WA (the Act), authorise the publication of The CPA Australia Ltd Professional Standards (Accountants) Scheme (the Scheme) submitted to me by the Professional Standards Council of New South Wales, pursuant to the mutual recognition provisions of the New South Wales and Western Australian professional standards legislation. The Scheme is published with this authorisation and remains in force for a period of two years from its commencement unless the Scheme is revoked, extended, or its operation ceases as specified in the Act.

Hon. JOHN QUIGLEY MLA, Attorney General.

Dated: 19 December 2017.

THE CPA AUSTRALIA LTD PROFESSIONAL STANDARDS (ACCOUNTANTS) SCHEME
Professional Standards Act 1994 (NSW)

PREAMBLE

- A. CPA Australia Ltd (“CPA Australia”) is a national occupational association.
- B. CPA Australia has made an application to the Professional Standards Council, appointed under the *Professional Standards Act 1994* (NSW) (“the Act”) for approval of a scheme under the Act.
- C. The Scheme is prepared by CPA Australia for the purposes of limiting Occupational Liability to the extent to which such liability may be limited under the Act.
- D. The Scheme propounded by CPA Australia is to apply to all participating members referred to in clause 2 of the Scheme and as otherwise stated in that clause.
- E. CPA Australia has furnished the Council with a detailed list of the risk management strategies intended to be implemented in respect of its members and the means by which those strategies are intended to be implemented.
- F. All participating members referred to in clause 2 of the Scheme are subject to disciplinary measures under the Constitution and By-Laws of CPA Australia and are also subject to the professional indemnity insurance requirements under the By-Laws of CPA Australia.
- G. The Scheme is intended to remain in force for a period of two (2) years from the date of commencement in each jurisdiction for which it is in force unless it is revoked, extended or ceases in accordance with section 32 of the Act.
- H. This Scheme is not intended to apply to holders of an Australian Financial Services Licence under Chapter 7 of the *Corporations Act 2001* (Cth) other than those who hold a Limited Licence.

THE CPA AUSTRALIA LTD PROFESSIONAL STANDARDS (ACCOUNTANTS) SCHEME

1. Occupational Association

1.1. The CPA Australia Ltd Professional Standards (Accountants) Scheme (the “Scheme”) is a scheme under “the Act” of CPA Australia, Level 20, 28 Freshwater Place, Southbank Victoria 3006.

1.2. Definitions of terms used in the Scheme appear in the Scheme, including in Part 4.

2. Persons to Whom the Scheme Applies

2.1. This Scheme applies to—

- (a) all CPA Australia members who hold a current Public Practice Certificate issued by CPA Australia other than—
 - (i) such members who also hold an Australian Financial Services Licence granted in accordance with section 913B of the *Corporations Act 2001* (Cth), not being a Limited Licence; and
 - (ii) Representatives of licensees under section 913B of the *Corporations Act 2001* (Cth), not being a Limited Licence;

And

- (b) all persons to whom the Scheme applies, by virtue of the Act¹ and the corresponding provisions of the Acts² of other jurisdictions in which the Scheme applies.

¹ Sections 18 and 19 of the Act provide that if the Scheme applies to a body corporate, the Scheme also applies to each officer of the body corporate and if the Scheme applies to a person, the Scheme also applies to each partner of a person, and if the Scheme applies to a person, the Scheme also applies to each employee of that person, provided that if such officer of the corporation or partner of the person or employee of the person is entitled to be a member of the same occupational association, such officer, partner or employee is a member of the occupational association. Section 20 provides that the Scheme may also apply to other persons as specified in that section. Section 20A extends the limitation of liability of persons to whom the scheme applies by virtue of sections 18 to 20.

Each such participating member and person is referred to in the Scheme as a “participant”.

2.2 No participant to whom the Scheme applies may choose not to be subject to the Scheme, however CPA Australia may, on written application by a participant referred to in clause 2.1(a), exempt the participant from the Scheme if CPA Australia is satisfied that he or she would suffer financial hardship in obtaining professional indemnity insurance to the levels set out in clause 3 below.

2.3 All participating members referred to in this clause 2 of the Scheme are subject to disciplinary measures under the Constitution and By-Laws of CPA Australia and are also subject to the professional indemnity insurance requirements under the By-Laws of CPA Australia.

3. Limitation of Liability

3.1 This Scheme only affects the Occupational Liability of a participant for damages³ arising from a Cause of Action to the extent to which the liability results in damages exceeding \$2 million.

3.2 Where a participant against whom a proceeding is brought relating to Occupational Liability in connection with Category 1 services is able to satisfy the court that the participant has the benefit of an Insurance Policy insuring the participant against the Occupational Liability and the amount payable under the Insurance Policy in respect of the Occupational Liability relating to the Cause of Action (including any amount payable by the person by way of excess under or in relation to the Policy) is not less than the Category 1 monetary ceiling determined in accordance with the table in clause 3.3, then the participant is not liable in damages in relation to that Cause of Action above the Category 1 monetary ceiling specified in clause 3.3.

3.3. The Category 1 monetary ceiling is an amount specified in the table below—

Groups	Monetary ceiling
1. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year immediately preceding the Relevant Time, of less than \$10 million.	\$2 million
2. Participants other than those in Groups 1 and 3.	\$10 million
3. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year immediately preceding the Relevant Time, greater than \$20 million.	\$75 million

3.4 Where a participant against whom a proceeding is brought relating to Occupational Liability in connection with Category 2 services is able to satisfy the court that the participant has the benefit of an Insurance Policy insuring the participant against the Occupational Liability, and the amount payable under the insurance policy in respect of the Occupational Liability relating to that Cause of Action (including any amount payable by the person by way of excess under or in relation to the policy) is not less than the Category 2 monetary ceiling determined in accordance with the table in clause 3.5 below, then the participant is not liable in damages in relation to that Cause of Action above the Category 2 monetary ceiling specified in clause 3.5.

3.5 The Category 2 monetary ceiling is the amount specified in the table below.

Groups	Monetary ceiling
1. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year immediately preceding the Relevant Time, of less than \$10 million.	\$2 million
2. Participants other than those in Groups 1 and 3.	\$10 million
3. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year immediately preceding the Relevant Time, greater than \$20 million.	\$20 million

3.6 Where a participant against whom a proceeding is brought relating to Occupational Liability in connection with Category 3 services is able to satisfy the court that the participant has the benefit of an Insurance Policy insuring the participant against the Occupational Liability, and the amount payable under the Insurance Policy in respect of the Occupational Liability relating to that Cause of Action (including any amount payable by the person by way of excess under or in relation to the Policy) is not less than the amount of the Category 3 monetary ceiling determined in accordance with the table in clause 3.7 below, then the participant is not liable in damages in relation to that Cause of Action above the Category 3 monetary ceiling specified in clause 3.7.

3.7 The Category 3 monetary ceiling is the amount specified in the table below.

Groups	Monetary ceiling
1. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year	\$2 million

² *Professional Standards Act 2003* (Vic); *Professional Standards Act 2004* (Qld); *Professional Standards Act 2004* (SA); *Professional Standards Act 1997* (WA); *Professional Standards Act 2005* (Tas); *Professional Standards Act 2004* (NT); *Civil Law (Wrongs) Act 2002* (ACT)

³ Damages as defined in section 4 of the Act means—

- (a) damages awarded in respect of a claim or counter-claim or by way of set-off; and
- (b) costs in or in relation to the proceedings ordered to be paid in connection with such an award (other than costs incurred in enforcing a judgment or incurred on an appeal made by a defendant); and
- (c) any interest payable on the amount of those damages or costs.

immediately preceding the Relevant Time, of less than \$10 million.	
2. Participants other than those in Groups 1 and 3.	\$10 million
3. Participants who at the Relevant Time were in an Accounting Practice which generated total annual fee income, for the financial year immediately preceding the Relevant Time, greater than \$20 million.	\$20 million

3.8. Pursuant to section 24 of the Act, this Scheme confers on CPA Australia a discretionary authority to specify, on application by a participant member, a higher maximum amount of liability not exceeding \$75 million than would otherwise apply under the Scheme in respect of any specified case or class of case of Category 2 services or Category 3 services.

3.9. In circumstances where the services provided by a participant comprise a combination of Category 1 services and any of—

- (a) Category 2 services;
- (b) Category 3 services;
- (c) Category 2 services and Category 3 services,

the participant's liability under this Scheme for damages in respect of a proceeding in relation to Occupational Liability in excess of the applicable amount specified in clause 3.1 will be determined in accordance with those provisions of the Scheme relating to Category 1 services only.

3.10. In circumstances where the services provided by a participant comprise a combination of Category 2 services and Category 3 services, the participant's liability under this Scheme for damages in respect of a proceeding in relation to Occupational Liability in excess of the applicable amount specified in clause 3.1 will be determined (subject to clause 3.9) in accordance with those provisions of the Scheme relating to Category 2 services only.

3.11. Nothing in this scheme is intended to increase, or has the effect of increasing, a participant's liability for damages to a person beyond the amount that, other than for the existence of this Scheme, the participant would be liable in law.

3.12. This Scheme only limits the amount of damages for which a participant is liable if and to the extent that it exceeds the amount specified in clause 3.1. Where the amount of damages in relation to a Cause of Action exceeds the amount specified in clause 3.1 liability for those damages will instead be limited to the amount specified in the applicable other provision of this clause 3.

3.13. Notwithstanding anything to the contrary contained in this scheme, if in particular circumstances giving rise to Occupational Liability, the liability of any participant should be capped both by this scheme and also by any other scheme under Professional Standards legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap which is higher shall be the applicable cap.

4. Definitions

4.1. In this Scheme, the following words and phrases have the following meanings—

“**Accounting Practice**” means the activities of a member including those who provide Public Accounting Services through an Approved Practice Entity (in accordance with the requirements of By-Law 9.3 of the By-Laws).

“**Act**” means *Professional Standards Act 1994* (NSW)

“**Acts**” means state and territory legislation other than the Act, including—

- (a) *Professional Standards Act 2003* (Vic);
- (b) *Professional Standards Act 2004* (Qld);
- (c) *Professional Standards Act 2004* (SA);
- (d) *Professional Standards Act 1997* (WA);
- (e) *Professional Standards Act 2005* (Tas);
- (f) *Professional Standards Act 2004* (NT); and
- (g) *Civil Law (Wrongs) Act 2002* (ACT)

“**Approved Practice Entity**” means such entities as defined as Approved Practice Entity in By-Law 9.3 of the By-Laws.

“**By-Laws**” means the By-Laws of CPA Australia Limited.

“**Category 1 services**” means—

- (a) all services required by Australian law to be provided only by a registered company auditor;
- (b) all other services provided by a registered company auditor in his or her capacity as auditor;
- (c) all services the deliverables from which—
 - (i) will be used in determining the nature, timing and extent of audit procedures in the context of an audit of a financial report; or
 - (ii) will be incorporated into the financial report of an entity; or
 - (iii) are required by law or regulation to be filed with a regulator (excluding returns signed by a registered tax agent).

“**Category 2 services**” means—

- (a) services to which Chapter 5 or Chapter 5A of the *Corporations Act 2001* (Cth) applies;

- (b) services provided pursuant to section 233(2) of the *Corporations Act*
- (c) services to which the *Bankruptcy Act 1966* (Cth) applies; or
- (d) services arising out of any court appointed liquidation or receivership.

“**Category 3 services**” means any services provided by a participant in the performance of his, her or its occupation, which are not Category 1 or Category 2 services.

“**Cause of Action**” means and includes all causes of action arising from the same source or originating cause.

“**Financial Services**” means financial services as described in Chapter 7 of the *Corporations Act 2001* (Cth) and the Regulations made under it, as amended from time to time but does not include those provided under a Limited Licence.

“**Insurance Policy**” means an insurance policy that complies with By-Law 9.8 of the By-Laws and section 27 of the Act.

“**Limited Licence**” means a licence to provide only limited financial services as defined in Regulations 7.8.12A and 7.8.14B of the *Corporations Regulations 2001* (Cth).

“**Occupational Liability**” has the same meaning as is ascribed to that term in the Act⁴ and Acts.

“**Public Accounting Services**” means those services defined as public accounting services in the By-Laws.

“**Principal(s)**” for the purposes of clauses 3.3, 3.5, and 3.7 means a person(s) in a Public Accounting Practice who is affiliated with the Controlled Person within the meaning of By-Law 1.2(c) of the By-Laws.

“**Public Practice Certificate**” means a Public Practice Certificate issued by CPA Australia Ltd, permitting a Member to provide Public Accounting Services.

“**Relevant Time**” means, in respect of a liability potentially limited by the Scheme, the period from the time(s) of the act(s) or omission(s) giving rise to the liability until the date that is seven years after the last such act or omission took place.

5. Jurisdiction

5.1. This Scheme is intended to operate in New South Wales. This Scheme is also intended to operate in the Australian Capital Territory, the Northern Territory of Australia, Victoria, Queensland, South Australia, Tasmania and Western Australia by way of mutual recognition under the professional standards legislation.

6. Commencement date and duration

6.1.1. This Scheme will commence on the day after the date of Gazettal in each of the following jurisdictions respectively: New South Wales, the Australian Capital Territory, the Northern Territory of Australia, Queensland, South Australia and Western Australia; and

6.1.2. In the event the Scheme or a notice relating to the Scheme is published in the Gazette in each of Victoria and Tasmania, on such day that is two (2) months after the date of its publication in each of those jurisdictions respectively.

6.2. The Scheme will operate for and is intended to remain in force for a period of two (2) years from the date of commencement in each jurisdiction for which it is in force unless it is revoked, extended or ceases in accordance with section 32 of the Act.

⁴ Occupational liability is defined in the Act as meaning “civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of an occupational association acting in the performance of his or her occupation”.