

**This scheme commenced on 22 November 2000 and
ceases on 21 November 2005.**

THE SOLICITORS SCHEME AMENDMENT 2005

Professional Standards Act 1994 (NSW)

Amendment to Solicitors Professional Standards Scheme

(1) Omit Clause 2 and insert instead

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

- 2.1 The scheme applies to Solicitor Members as defined in clause 2.2 and Other Persons as defined in clause 2.3 of the scheme. The scheme also applies to persons who were Solicitor Members and Other Persons so defined as set out in clause 2.4.
- 2.2 All Solicitor Members of the Law Society who hold a current practising certificate issued by the Law Society who have not been exempted under clause 2.5 of the scheme, and who have the benefit of an insurance policy under which the amount payable in respect of occupational liability is not less than the maximum amount of liability applicable to that person at the relevant time which insurance complies with standards set from time to time by the Law Society in accordance with section 27 of the Act.
- 2.3 Persons to whom the scheme applies by virtue of sections 18, 19, 20 and 20A of the Act.
- 2.4 Persons who were Solicitor Members or Other Persons as defined in clauses 2.2 and 2.3 for civil liability arising from their acts, errors or omissions occurring during the period in which they were Solicitor Members or Other Persons and to whom the Scheme applied at the relevant time.
- 2.5 A person may, on application, be exempted from the Scheme by the Law Society. This clause does not apply to Other Persons as defined in clause 2.3 of the Scheme.”

(2) Amend Clause 3.2 by omitting the word “The” where it first appears and insert instead “Subject to Clause 3.4, the”

(3) After Clause 3.3 insert

- 3.4 “The Law Society may from time to time, in its discretion, on application by a Solicitor Member or law practice on behalf of Solicitor Members to whom the Scheme applies, specify in relation to that person a higher maximum amount of liability than would otherwise apply under the Scheme, either in all cases or in any specified case or class of case.
- 3.4.1 In respect of a cause of action founded on an act or omission to which, and occurring during the period in which, a higher maximum amount of liability may apply under clause 3.4, such higher maximum amount of liability will continue to apply notwithstanding any termination or revocation of

that higher maximum amount of liability, or further exercise of discretion by the Law Society under clause 3.4.

3.4.2 The Law Society shall maintain a register ("Register") of all exercises of discretion by it under clause 3.4 and 3.4.6.

3.4.3 Promptly after the exercise of a discretion by it under clause 3.4 or 3.4.6, the Law Society shall enter into the Register particulars of:-

- (α) the name and address, or such other particulars as are sufficient to identify the Solicitor Member or law practice on behalf of Solicitor Members to whom the exercise of the discretion is to apply;
- (b) the case or cases, or class of case or cases, to which the exercise of the discretion is to apply;
- (c) the effective date from which the exercise of the discretion is to apply, which effective date cannot be prior to the actual date of exercise of the discretion (in respect of the exercise of a discretion under clause 3.4), or the expiry of the period of notice under clause 3.4.6 (in respect of the exercise of a discretion under clause 3.4.6); and
- (d) the effective date upon which the exercise of the discretion will expire (if the exercise of the discretion is not to be continuing for the duration of the Scheme or until a contrary discretion under clause 3.4 or 3.4.6 is exercise by the Law Society).

3.4.4 The Law Society shall make available for examination by any interested person, on written application and on reasonable notice a copy of the Register.

3.4.5 The Law Society shall forward to the Professional Standards Council:

- (α) promptly after making any entry in the Register, details of that entry; and
- (b) promptly after each of 30 June, 30 September, 31 December and 31 March each year, a complete copy of the Register endorsed by a proper officer of the Law Society that the content of the Register is true and correct.

3.4.6 The Law Society may from time to time, and in any event at least once in each financial year shall, review the Register and the continuing application of its discretion in the terms of the entries in the Register having regard to any relevant material circumstances of which the Law Society is aware, with discretion to the Law Society to revoke any prior exercise of discretion by it under clause 3.4 on giving not less than 90 days notice in writing to the applicant upon whose application the discretion was previously exercised (or such lesser period of notice to which the Solicitor Member may agree in writing).

3.4.7 3.4.7 Any exercise of discretionary authority by the Law Society under clause 3.4 shall be exercised subject to the reservation of the discretion conferred on the Law Society under clause 3.4.6."(4) The amendment commences on 11 July 2005