



New Professional Standards Scheme

The third New South Wales Bar Association professional standards scheme commenced on 1 July 2015 and expires 30 June 2020. Members will see no practical difference with in new scheme compared to the old one which expired on 30 June 2015.

The scheme continues to limit liability for damages to \$1.5 million and remains mutually recognised in WA, ACT, Vic, NT, Qld and SA. The scheme has also been prescribed under the *Competition and Consumer Act 2010* (the CCA), the *Australian Securities and Investments Commission Act 2001* (ASIC Act) and the *Corporations Act 2001* (the CA). Prescription of the scheme under the CCA, ASIC Act and CA ensures the state professional standards laws cannot be bypassed by litigants attempting to access uncapped payouts under those Acts.

Persons covered by the scheme

To be covered by the scheme a barrister must be a member of the New South Wales Bar Association, hold a NSW barristers practising certificate, and have approved professional indemnity insurance.

Members Obligations - Mandatory disclosure statement

Liability limited by a scheme approved under Professional Standards Legislation.

Members are reminded of the obligation to display the required disclosure statement on **all** documentation sent to existing and prospective clients – including instructing solicitors. This ensures that the scheme can be relied upon to protect against unlimited liability. A person covered by a scheme who does not use the disclosure statement as required is guilty of an offence (refer s33(2) of the *Professional Standards Act 1994*).

Clause 9 of the *Professional Standards Regulation 2014* sets out the prescribed disclosure statement to be used, i.e. 'Liability limited by a scheme approved under Professional Standards Legislation'. Please note that the statement must be printed on a size not less than the face measurement of Times New Roman typeface in 8 point.

As a guide, the disclosure should appear on:

- Letterhead and letters;
- Fax cover sheets;
- Documents such as written advice and other documents produced for clients but not accompanied by a letter or other document containing a disclosure statement;
- E-mail, including those sent through a Blackberry and/or iPhone;
- Memorandum of fees and invoices not accompanied by a letter or other document containing a disclosure statement;
- Newsletters and other publications; and
- Websites

Please check to ensure you are using the correct disclosure statement on all documents as required as random audits are required to be undertaken by the Association.

Should you have any queries regarding the Scheme, please contact the Bar Association's Scheme Administrator and Policy Lawyer, Ms Kim Kemp on ph 9232 4055, fax 9221 1149 or e-mail kkemp@nswbar.asn.au.