

INSTRUMENT AMENDING THE RICS VALUERS LIMITED SCHEME
Professional Standards Act 1994 (NSW)

PREAMBLE

- A. The RICS Valuers Limited ("RICS Limited") is a voluntary occupational association for valuers. It is a national organisation whose principal place of business is in Sydney, New South Wales.
- B. The RICS Limited Scheme ("the scheme") commenced on 1 January 2016.
- C. This instrument of amendment has been prepared by the RICS Limited under s16A of the *Professional Standards Act 1994 (NSW)* ("the Act") to amend the Scheme.

AMENDMENT TO THE SCHEME

This instrument to amend the scheme under s16 of the Act is prepared by the RICS Limited, whose business address is Suite 1, Level 9, 1 Castlereagh Street, Sydney, NSW 2000. Amendments are as below.

Persons to whom the scheme applies

Clause 2.1: delete "The scheme applies to all members of RICS Valuers Limited" and replace with "The scheme applies to all members of RICS Limited".

Insert new clause 2.3 "Upon application by a member to whom the scheme applies, RICS Limited may exempt the member from the scheme, provided that the scheme does not apply to the person by operation of section 18, 19 or 20 of the Act"

Limitation of liability

Clause 3.2(a): delete "of a kind which complies with the standards determined by the RICS Limited" and replace with "of a kind which complies with the RICS Insurance Standards".

Clause 3.3: insert the phrase "in relation to a Valuation" thus "The monetary ceiling (maximum amount of liability) in relation to a Valuation required for the purposes of limitation of liability under this scheme at the time at which the act or omission giving rise to the cause of action occurred is to be determined according to the following table".

Conferral of discretionary authority

Clause 4.1: delete "the RICS Valuers Limited" and replace with the defined term "the RICS Limited" thus "Pursuant to section 24 of the Act, this scheme confers to the RICS Limited a discretionary authority to specify, on application by a person to whom the scheme applies, in relation to that person a higher monetary ceiling (maximum amount of liability) not exceeding \$20 million, in relation to the person either in all cases or in any specified case or class of case.

Definitions

Clause 6.1: delete "**RICS** means the RICS Valuers Limited" and replace with "**RICS Limited** means the RICS Valuers Limited.

Insert the phrase "in any future amendments" in the definition "Property Value" thus: "**Property Value** means the value of a property as at the date of the Valuation as determined under Market Value or as defined by the International Valuation Standards Council (IVSC) in any future amendments."

Insert new definition "**Valuation** means an opinion or estimate of value made in writing by an individual member of RICS Limited, or countersigned by an individual member of RICS Limited pursuant to a client's written instructions."

COMMENCEMENT

The amendments to the scheme made by this instrument will commence after publication in the appropriate Government Gazette(s).

Professional Standards Act 1994 (NSW)
RICS Valuers Limited Scheme

PREAMBLE

- A. The RICS Valuers Limited (RICSV Limited) is an occupational association.
- B. The RICSV Limited has made an application to the Professional Standards Council, constituted by the *Professional Standards Act 1994 (NSW)* (the Act), for a scheme under the Act.
- C. The scheme is prepared by the RICSV Limited for the purposes of limiting occupational liability to the extent to which such liability may be limited under the Act.
- D. The RICSV Limited 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.
- E. The scheme is intended to commence on 1 January 2016 and remain in force for five (5) years from its commencement unless, prior to that time, it is revoked, its operation ceases, or it is extended pursuant to section 32 of the Act.
- F. The scheme is intended to apply in New South Wales, Victoria, South Australia, the Australian Capital Territory, the Northern Territory, Queensland, and Western Australia.

RICS VALUERS LIMITED SCHEME

1. Occupational association

- 1.1 The RICSV Limited Scheme (the scheme) is a scheme under the *Professional Standards Act 1994 (NSW)* (the Act) prepared by the RICS Valuers Limited (RICSV Limited) whose business address is: Suite 1, Level 9, 1 Castlereagh Street, SYDNEY NSW 2000

2. Persons to whom the scheme applies

- 2.1 The scheme applies to all members of RICSV Limited.
- 2.2 This scheme also applies to all persons to whom the scheme applied under clause 2.1 at the time of any act or omission giving rise to occupational liability.
- 2.3 Upon application by a member to whom the scheme applies, RICSV Limited may exempt the member from the scheme, provided that the scheme does not apply to the person by operation of section 18, 19 or 20 of the Act.

3. Limitation of liability

- 3.1 This scheme only affects the liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding \$1,000,000.
- 3.2 If a person, who was at the time of the act or omission giving rise to occupational liability, a person to whom the scheme applied, against whom a proceeding relating to occupational liability is brought, is able to satisfy the court that such person has the benefit of an insurance policy:
- a) of a kind which complies with the RICSV Insurance Standards,
 - b) insuring such person against that occupational liability, and
 - c) under which the amount payable in respect of that occupational liability is not less than the monetary ceiling specified in this scheme,

that person is not liable in damages in relation to that cause of action above the monetary ceiling specified in this scheme.

- 3.3 The monetary ceiling (maximum amount of liability) in relation to a Valuation required for the purposes of limitation of liability under this scheme at the time at which the act or omission giving rise to the cause of action occurred is to be determined according to the following table:

| Class | Description | Band | Monetary Ceiling |
|-------|------------------|--------------------------------|------------------|
| 1 | Property Value A | \$0 million to < \$3 million | \$1 million |
| 2 | Property Value B | \$3 million to < \$5 million | \$2 million |
| 3 | Property Value C | \$5 million to < \$10 million | \$3 million |
| 4 | Property Value D | \$10 million to < \$20 million | \$4 million |

For properties valued at above \$20 million the ceiling will be 20% of the value of the property on the day of the Valuation, up to \$10 million.

- 3.4 Clause 3.2 only affects liability for damages arising from a single cause of action to the extent to which the liability results in damages exceeding such amount as is specified in clause 3.1.
- 3.5 This scheme limits the occupational liability in respect of a cause of action founded on an act or omission occurring during the period when the scheme was in force of any person to whom the scheme applied at the time the act or omission occurred.
- 3.6 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 persons arising from such circumstances which is higher shall be the applicable cap.

4. Conferral of discretionary authority

- 4.1 Pursuant to section 24 of the Act, this scheme confers to the RICSV Limited a discretionary authority to specify, on application by a person to whom the scheme applies, in relation to that person a higher monetary ceiling (maximum amount of liability) not exceeding \$20 million, in relation to the person either in all cases or in any specified case or class of case.

5. Duration

- 5.1 This scheme will be in force for a period of 5 years from the date of commencement.

6. Definitions

- 6.1 Relevant definitions for the purposes of the scheme are as follows:

RICSV Limited means the RICS Valuers Limited.

RICSV Insurance Standards mean the insurance standards approved by the RICSV from time to time.

The Act means the *Professional Standards Act 1994* (NSW).

Property Value means the value of a property as at the date of the Valuation as determined under Market Value or as defined by the International Valuation Standards Council (IVSC) in any future amendments.

Market Value means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion or as defined by the International Valuation Standards Council (IVSC) in any future amendments.

Valuation means an opinion or estimate of value made in writing by an individual member of RICS Limited, or countersigned by an individual member of RICS Limited pursuant to a client's written instruction.