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PROFESSIONAL STANDARDS ACT 1997

PROFESSIONAL STANDARDS ACT 1994
(NEW SOUTH WALES)

**AUSTRALIAN COMPUTER
SOCIETY PROFESSIONAL
STANDARDS SCHEME**

PROFESSIONAL STANDARDS ACT 1997

THE AUSTRALIAN COMPUTER SOCIETY PROFESSIONAL STANDARDS SCHEME

I, C. Christian Porter MLA, Attorney-General, pursuant to section 26 of the *Professional Standards Act 1997* (the Act), authorise the publication of the Australian Computer Society Professional Standards Scheme (the Scheme) submitted to me by the New South Wales Professional Standards Council 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 commences in accordance with section 27 of the Act. The Scheme remains in force from the date of its commencement until 31 December 2014, unless the Scheme is revoked, extended, or its operation ceases as specified in the Act.

C. CHRISTIAN PORTER MLA, Attorney-General.

Dated: 23 July 2011.

PROFESSIONAL STANDARDS ACT 1994 (NEW SOUTH WALES)**INSTRUMENT AMENDING THE ACS LIMITED LIABILITY (NSW) SCHEME****PREAMBLE**

- A. The Australian Computer Society Inc. (ACS) is an occupational association.
- B. The ACS scheme (the scheme) commenced on 1 January 2010.
- C. The ACS prepares this instrument of amendment for the purposes of amending the ACS Limited Liability (NSW) Scheme.

AMENDMENT TO THE SCHEME

1.0 This instrument to amend the ACS Limited Liability (NSW) Scheme is prepared under the *Professional Standards Act 1994* (NSW) (the Act) by the Australian Computer Society (ACS) whose business address is: Level 11/50 Carrington St, Sydney, NSW 2000.

Name of the scheme

1.1 Delete the name of the scheme as it appears at the beginning of the document, "The ACS Limited Liability (NSW) Scheme", and replace it with the name, "The Australian Computer Society Professional Standards Scheme".

1.2 Delete the name of the scheme as it appears immediately following the Preamble, "The ACS Limited Liability (NSW) Scheme", and replace it with the name "The Australian Computer Society Professional Standards Scheme"

1.3 Delete the name of the scheme as it appears in clause 1.1 of the scheme, "The ACS scheme", and replace it with the name "The Australian Computer Society Professional Standards Scheme".

Mutual recognition

1.4 Delete paragraph H as currently drafted in the Preamble to the scheme, "The scheme is intended to operate as a scheme of New South Wales, the Australian Capital Territory, the Northern Territory, Queensland and Victoria", and replace it with the following paragraph H—

The scheme is intended to operate as a scheme of New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia and South Australia.

PROFESSIONAL STANDARDS ACT 1994 (NEW SOUTH WALES)**THE AUSTRALIAN COMPUTER SOCIETY PROFESSIONAL STANDARDS SCHEME****PREAMBLE**

- A. The Australian Computer Society Inc. (ACS) is an occupational association.
- B. The ACS has made an application to the Professional Standards Council, appointed under the *Professional Standards Act 1994* (NSW) (the Act), for a scheme under the Act.
- C. The scheme is prepared by the ACS 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 the ACS is to apply to ACS members who qualify as Certified Computer Professionals.
- E. The ACS 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. The ACS has furnished the Council with insurance standards determined by ACS with which members must comply for purposes of this scheme.
- G. The scheme is intended to 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 s32 of the Act.
- H. The scheme is intended to operate as a scheme of New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, Victoria, Western Australia and South Australia.

THE AUSTRALIAN COMPUTER SOCIETY PROFESSIONAL STANDARDS SCHEME**1. Occupational association**

1.1 The Australian Computer Society Professional Standards Scheme (the scheme) is a scheme under the *Professional Standards Act 1994* (NSW) (the Act) prepared by the Australian Computer Society Inc. (ACS) whose business address is: Level 11/50 Carrington Street, Sydney, NSW, 2000.

2. Persons to Whom the Scheme Applies

2.1 The scheme applies to all individual practitioner members of the ACS who qualify as Certified Computer Professionals, unless exempted by ACS.

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 The ACS may, on written application by a member to whom this scheme applies, exempt the member from the scheme, provided that the scheme does not apply to the person by virtue of that person being a partner or employee of a person to whom the scheme applies, or the person being prescribed by regulation as a person to whom the scheme applies.

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 \$1.5 million.

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 standards determined by the ACS,
- (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 is \$1.5 million.

3.4 Clause 3.2 does not limit the amount of damages to which a person to whom the scheme applies is liable if the amount is less than the amount specified for the purpose in this scheme in relation to a person to whom the scheme applies.

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 in respect of any person to whom the scheme applied at the time the act or omission occurred.

4. Conferral of discretionary amount

4.1 Pursuant to s24 of the *Act* this scheme confers on the ACS a discretionary authority to specify, on application by a person to whom the scheme applies, in relation to that person, a monetary ceiling (maximum amount of liability) not exceeding \$10 million in relation to the person either in all cases or in any specified case or class of case.

5. Duration

5.1 The scheme shall be in force after its commencement in all applicable jurisdictions until 31 December 2014, unless otherwise extended, or it is revoked, or otherwise ceases operation or to have effect.
