

Professional Standards Act 1994 (New South Wales)
**INSTRUMENT AMENDING THE
ENGINEERS AUSTRALIA NEW SOUTH WALES SCHEME**

PREAMBLE

- A. The Institution of Engineers Australia (Engineers Australia) is an occupational association.
- B. The Engineers Australia NSW Scheme (the Scheme) commenced on 24 February 2007.
- C. This instrument of amendment is prepared by Engineers Australia for the purposes of amending the Engineers Australia NSW Scheme, in line with the Engineers Australia Schemes in the Australian Capital Territory, the Northern Territory of Australia, Queensland, South Australia, Tasmania, Victoria and Western Australia.

AMENDMENT TO THE SCHEME

1. This instrument to amend the Engineers Australia NSW Scheme is prepared under the *Professional Standards Act 1994 (NSW)* (the *Act*) by the Institution of Engineers Australia (Engineers Australia) whose business address is 11 National Circuit, Barton, ACT 2006.

MONETARY CEILING

1.1. Omit clause 3.2 of the Scheme and in its place insert the following:

“3.2 The monetary ceiling (maximum amount of liability) 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	Monetary ceiling (maximum amount of liability)
1	Category A member	\$1.5 million
2	Category B member	\$4 million
3	Category C member	\$8 million
4	Category D member	\$20 million

CATEGORY DEFINITION

1.2. Omit Clause 3.4 of the Scheme and in its place insert the following:

“3.4 Relevant definitions for the purposes of this clause are as follows:

“**total annual fee income**” means the amount charged during a financial year for services provided by or on behalf of:

- (a) a body corporate who is a member of Engineers Australia to whom the scheme applies;
- (b) a partnership some of whose members are members of Engineers Australia to whom the scheme applies ;
- (c) a sole trader who is a member of Engineers Australia to whom this scheme applies.

“**financial year**” means a financial accounting period ending 30 June.

“**category A member**” means a person who is a member of Engineers Australia to whom the scheme applies and who is:

- (a) a body corporate whose total annual fee income for the most recent financial year is less than \$1 million;
- (b) an individual who is a member of a partnership, where the total annual fee income of such partnership for the most recent financial year is less than \$1 million; and
- (c) a sole trader whose total annual fee income for the most recent financial year is less than \$1 million.

“**category B member**” means a person who is a member of Engineers Australia to whom the scheme applies and who is:

- (a) a body corporate whose total annual fee income for the most recent financial year is \$1 million or more, but is less than \$3 million;
- (b) an individual who is a member of a partnership, where the total annual fee income of such partnership for the most recent financial year is \$1 million or more, but is less than \$3 million; and
- (c) a sole trader whose total annual fee income for the most recent financial year is \$1 million or more, but is less than \$3 million.

“**category C member**” means a person who is a member of Engineers Australia to whom the scheme applies and who is:

- (a) a body corporate whose total annual fee income for the most recent financial year is \$3 million or more, but is less than \$10 million;
- (b) an individual who is a member of a partnership, where the total annual fee income of such partnership for the most recent financial year is \$3 million or more, but is less than \$10 million; and
- (c) a sole trader whose total annual fee income for the most recent financial year is \$3 million or more, but is less than \$10 million.

“**category D member**” means a person who is a member of Engineers Australia to whom the scheme applies and who is:

- (a) a body corporate whose total annual fee income for the most recent financial year is \$10m or more, but is less than \$20m.

- (b) an individual who is a member of a partnership, where the total annual fee income of such partnership for the most recent financial year is \$10m or more, but is less than \$20m.
- (c) a sole trader whose total annual fee income for the most recent financial year is \$10m or more, but is less than \$20m. “

LIABILITY THAT CANNOT BE LIMITED BY THE SCHEME

1.3. Omit Clause 3.5 of the Scheme and in its place insert the following:

“3.5 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 \$1,500,000. “

MAXIMUM AMOUNT OF DISCRETIONARY AUTHORITY

1.4. Omit Clause 4.1 of the Scheme and in its place insert the following:

“4.1 Pursuant to s24 of the *Act*, this scheme confers on Engineers Australia a discretionary authority to specify, on application of a member of Engineers Australia to whom the scheme applies, a higher monetary ceiling (maximum amount of liability) not exceeding \$20 million, in all cases or in any specified case or class of case.”

COMMENCEMENT

2. The amendment will commence on 13 December 2008.