

Law Society By-laws 2010

Version current from 1 December 2012 to date



Law Society By-laws 2010

In pursuance and exercise of the powers conferred on it by the [Legal Profession Act 2007](#), the Council of the Law Society of Tasmania makes the following by-laws under and for the purposes of that Act.

PART 1 - Preliminary

1. Short title

These by-laws may be cited as the [Law Society By-laws 2010](#).

2. Commencement

These by-laws take effect on

Note

These by-laws take effect on 1 December 2012 by virtue of [section 628\(7\)\(a\)](#) of the [Legal Profession Act 2007](#).

3. Interpretation

In these by-laws, unless the contrary intention appears –

Act means the [Legal Profession Act 2007](#) ;

executive committee means the executive committee of the Council established under [section 623](#) of the Act;

Executive Director means the executive director of the Society;

Full Member means a member referred to in by-law 5(3);

member means a member of the Society;

Northern Region means the municipal areas of Break O'Day, Dorset, Flinders Island, George Town, Launceston, Meander Valley, Northern Midlands and West Tamar;

North-Western Region means the municipal areas of Burnie, Central Coast, Circular Head, Devonport, Kentish, King Island, Latrobe, Waratah-Wynyard and West Coast;

practitioner means an Australian legal practitioner as defined in [section 6](#) of the Act;

region means the Northern Region, North-Western Region or Southern Region;

regional committee means a Regional Committee established under [clause 36](#) ;

register means the register maintained under [clause 7](#) ;

Southern Region means the municipal areas of Brighton, Central Highlands, Clarence, Glamorgan-Spring Bay, Glenorchy, Hobart, Huon Valley, Kingborough, New Norfolk, Sorell, Southern Midlands and Tasman.

4. Objects of the Society

The objects of the Society are to:

- (1) represent generally the views of the legal profession; and
- (2) maintain the integrity of the legal profession; and
- (3) suppress dishonourable conduct within the legal profession; and
- (4) promote the maintenance and just reform of the law; and
- (5) perform the Society's statutory functions; and
- (6) provide for the settlement of professional disputes; and
- (7) deal with any matter affecting the professional interest of practitioners; and
- (8) encourage and promote the study of law; and
- (9) form and maintain law libraries; and
- (10) acquire any rights or privileges which the Society regards as necessary for promoting the interests of the profession; and
- (11) promote or undertake education in the law and the legal system in schools and in the community; and
- (12) communicate information on the law and matters related to the law; and
- (13) publish, or subsidize the publication of, materials in connection with the objects of the Society; and
- (14) promote the education and training of the profession and to promote the efficient practice of the law; and
- (15) do those things that are necessary or reasonable to the attainment of the objects.

PART 2 - Membership of the Society

5. Types of membership

- (1) Membership of the Society shall be as a Full Member, or as an Associate Member.
- (2) An Associate Member shall be entitled to all the benefits of the Society but, subject to subsection 3, may not be a member of the Council, may not vote in respect of election of members of Council, and may not vote at any meeting of the Society.
- (3) A Full Member is a practitioner referred to in paragraph 6(1) below and an Associate Member who is taken to hold a Practising Certificate by virtue of [s. 41](#) of the [Legal Profession Act 2007](#) .
- (4) Applications for Associate Membership are made pursuant to by-law 6(2).

6. Application for membership

- (1) A practitioner in respect of whom there is issued a current practising certificate is a Full Member of the Society unless the practitioner elects by notice in writing to the Executive Director not to be a member.
- (2) A person in respect of whom there is issued no current practising certificate may apply to the Society for Associate Membership. Such application shall be:
 - (a) in writing in a form approved by the Council;
 - (b) lodged with the Executive Director; and
 - (c) accompanied by any relevant fee set by the Council from time to time.
- (3) The Council may:
 - (a) approve the application; or
 - (b) refuse to approve the application.
- (4) The Executive Director is to give notice to the applicant of the approval or refusal to approve the application and in the event of a refusal is to return to the applicant any fee accompanying the application.
- (5) If the Council approves the application:
 - (a) membership commences from the date when the Council approves the application; and
 - (b) membership expires at the end of the financial year in which membership commenced or on such other date as the Council determines when it approves the application.

7. Register of members

- (1) The Executive Director is to maintain a register of all members.
- (2) The register is to contain:
 - (a) the name of each member;

(b) the home jurisdiction of a member who has a home jurisdiction within the meaning of [section 8](#) of the Act; and

(a) the address of each member, including the postal address and the document exchange address and the email address of each member as is or are applicable from time to time.

(3) A member is to notify the Executive Director in writing of any change or error in the required contents of the register.

(4) The Executive Director is to remove a person's name from the register if that person ceases to be, by resignation or otherwise, a member.

8. Expulsion of members

(1) The Society may, by resolution of the Council, expel a person as a member if:

(a) that person is guilty of conduct that in the opinion of the Council is or is reasonably likely to be detrimental to the reputation, standing, character, objects or interests of the Society or its members;

(b) that person is guilty of misconduct in connection with the performance or non-performance of any of the functions or duties of any office held by that person under the Act or under these by-laws; or

(c) that person fails or refuses without reasonable cause to pay a fee, levy, or subscription that is due and payable by that person to the Society in connection with that person's membership.

(2) A motion to expel a member must be carried by the affirmative vote of at least three-quarters of the Full Members of the Council present and voting at the meeting.

(3) The Council may not consider or vote upon a motion to expel a member unless the Executive Director has given to that person and to each member of the Council at least fourteen days notice in writing of a meeting at which the motion will be considered.

(4) The notice is to set out the motion and is to contain or have attached to it:

(a) notice of the date, time and place at which the Council will meet to consider the motion;

(b) a statement of the grounds for the motion;

(c) details of any evidence and copies of any documents that will be put before the Council in connection with the motion when the motion is considered;

(d) notice that the member may show cause why that person should not be expelled and that he or she may do so in writing in accordance with [subclause \(5\)](#) or by appearing before the Council at the meeting at which the motion is to be considered.

(5) A member may show cause why that person should not be expelled:

(a) in writing delivered to the Executive Director at least four days before the time fixed for the meeting at which the motion to expel that person is to be considered; or

(b) by appearing before the Council at that meeting.

(6) A member who intends to show cause by appearing before the Council pursuant to [subclause \(5\)\(b\)](#) is to give to the Executive Director notice of that intention in writing not less than four days before the time fixed for the meeting.

(7) If the Council is satisfied that a person has been given notice in accordance with [sub-clause \(4\)](#) of a motion to expel that person as a member, and that person does not show cause in writing, or appear before the Council to show cause why that person should not be expelled, the Council may consider and vote upon the motion without hearing that person and without further notice to that person.

(8) The Council may, at the request of the person whose expulsion is under consideration or of its own motion, defer the consideration of the motion to another meeting of the Council.

(9) A person is to be given notice in writing by the Executive Director:

(a) of a resolution to expel that person as a member; or

(b) that a motion to expel that person has not been carried –

forthwith after the conclusion of the meeting at which the motion to expel that person was voted upon.

9. Suspension of membership or of the benefits of membership

(1) The Society may, by notice in writing, suspend a person's membership or any right, privilege or benefit of membership that is specified in the notice, if:

(a) any moneys payable to the Society by that person by way of fee, levy or subscription are unpaid after thirty days from the date when such moneys became due and payable and that person has not satisfied the Society that there is reasonable cause for non-payment; or

(b) that person has informed the Society that he or she refuses to pay such moneys without satisfying the Society that there are reasonable causes for refusing to do so.

(2) The suspension may be for such period as the Society determines is appropriate having regard to the amount that is unpaid, the period for which it remains unpaid, the nature and purpose of the fee, levy or subscription, and any other facts or circumstances the Society considers are relevant.

PART 3 - General Meetings

Division 1 - Annual General Meetings

10. Annual General Meeting

- (1) The Annual General Meeting of the Society is to be held in August, September or October at a time and place appointed by the Council.
- (2) The business at an Annual General Meeting is as follows:
 - (a) the accounts submitted by the treasurer for approval;
 - (b) the appointment of members of the Council;
 - (c) the Council's annual report;
 - (d) business introduced by the Council;
 - (e) any other business of which 21 days' notice in writing is given to the Executive Director before the meeting.

Division 2 - Special general meetings

11. Special general meetings

- (1) The Council may convene a special general meeting at any time.
- (2) The Executive Director is to convene a special general meeting:
 - (a) on receipt of a request in writing signed by 12 or more Full Members; or
 - (b) on a resolution of the Council.
- (3) A special general meeting convened under [subclause \(2\)](#) is to be held not less than 14 days and not more than 30 days from the date on which the Executive Director receives notice of the request or resolution.

Division 3 - Procedure of general meetings

12. Notice of general meeting

- (1) The Executive Director is to give 14 days' notice in writing to each member of any general meeting but 28 days' notice of each Annual General Meeting.
- (2) A notice is to state the business of the meeting.

13. Quorum

- (1) The quorum at any general meeting is 20 Full Members.
- (2) A general meeting may only transact business if there is a quorum present.
- (3) If 20 Full Members are not present within half an hour after the time appointed for a general meeting, the meeting is to be adjourned to a day and time to be fixed by a majority of the Full Members present.

(4) If 20 Full Members are not present within half an hour after the time to which the general meeting is adjourned, the meeting lapses.

14. Adjournment

- (1) The Society may adjourn a general meeting to a future day.
- (2) The Executive Director is to give at least 72 hours' notice in writing to each member of an adjournment, stating in such notice the business of the meeting.

15. Chairperson

- (1) At any general meeting the president, or in the president's absence the vice-president, is to act as chairperson.
- (2) In the absence of the president and the vice-president, the Full Members present at the meeting are to choose a Full Member to act as chairperson.

16. Decisions

- (1) Any decision of the Society at a general meeting is to be made by a majority of the Full Members present personally or by proxy.
- (2) In any decision of the Society, the chairperson is to have a casting vote only.

17. Voting and proxies

- (1) At any meeting of the Society a Full Member may vote:
 - (a) in person; or
 - (b) by proxy.
- (2) A proxy is to be:
 - (a) in writing in the form contained in [Schedule 1](#) ; and
 - (b) sent to and received by the Executive Director before the meeting at which it is intended to be used.
- (3) The Executive Director is to deliver any proxy to the chairperson of the meeting at which it is intended to be used.
- (4) The chairperson is to announce any proxy at the meeting.
- (5) A member may not vote by proxy on:
 - (a) a motion for expulsion of a member; or
 - (b) any question directly affecting any member personally.
- (6) Any vote made by proxy is valid as if it were made by the member in person.
- (7) A member is not to act by proxy for more than 5 persons at any one meeting.
- (8) A proxy continues in force for the particular meeting for which it was given and during any adjournment of that meeting.

18. Disputes

In any case of dispute, doubt or difficulty about any matter of procedure or order in a general meeting, the chairperson's decision is final.

19. Minutes

(1) The Executive Director is to maintain a minute book of the minutes of the proceedings of each general meeting.

(2) The chairperson is to confirm and sign the minutes at the next Annual General Meeting.

20. Irregularities

(1) A proceeding of a general meeting is valid notwithstanding that:

(a) an irregularity occurs in the holding of the meeting or in an election or other proceeding taking place at the meeting; and

(b) the irregularity is not objected to at the meeting.

(2) If an irregularity is objected to at a general meeting, the Full Members at that meeting must decide whether or not the objection is upheld.

(3) A decision under [subclause \(2\)](#) is final.

PART 4 - The Council

Division 1 - Council members

21. Members of Council

(1) The members of the Council consist of:

(a) 5 Full Members, each of whom has his or her principal place of practice in the Northern Region; and

(b) 3 Full Members, each of whom has his or her principal place of practice in the North-Western Region; and

(c) 8 Full Members, each of whom has his or her principal place of practice in the Southern Region.

(2) Any retiring member of the Council may be re-elected.

22. Elected officers

(1) The president, vice-president and treasurer are to be elected by the Council from within its own members at its first meeting after the Annual General Meeting of the Society and continue in office until the election of their successors.

(2) A retiring president may not be re-elected if he or she has held office continuously for the preceding 3 years.

23. Resignation

A member of the Council may resign by notice in writing to the Executive Director.

24. Vacation of office

(1) A member of the Council vacates office if:

(a) that member ceases to be a member of the Society; or

(b) that member is bankrupt; or

(c) that member is of unsound mind; or

(d) that member resigns; or

(e) that member fails to attend 3 consecutive meetings of the Council without the permission of the Council; or

(f) that member's office is declared vacant by resolution under these by-laws.

(2) If a casual vacancy occurs in the Council, the Council is to appoint a Full Member to that vacancy.

(3) The Council need not appoint a member to a casual vacancy if the vacancy occurs within a month of an Annual General Meeting of the Society.

(4) A member appointed to a casual vacancy holds office until the next Annual General Meeting of the Society and:

(a) if the member whose office he or she has taken would then have retired, then retires; or

(b) if the member whose office he or she has taken would have held office for another year, is then replaced by a member elected to hold office for that year at an Annual Meeting of the Regional Committee in the region in which the vacancy exists.

Division 2 - Nomination and election of Council members

25. Nominations

(1) At least 21 days before the day fixed for the Annual Meeting of the Regional Committee, the Secretary of the Regional Committee or the Executive Director, is to call for nominations of candidates for election to the Council.

(2) Any 2 Full Members may nominate a Full Member for election to the Council.

(3) A nomination is to:

(a) be in writing; and

(b) be provided to the Secretary of the Regional Committee of the region in which the candidate has his or her principal place of practice –

at least 10 days before the day fixed for the Annual Meeting of the Regional Committee.

(4) A notice is to contain:

(a) the name and address of the candidate; and

(b) the written consent of the candidate.

26. Elections

(1) If there are more nominations than the required number of candidates, an election is to be conducted by ballot held under this Division.

(2) On an election by ballot, a Full Member may only vote in the region in which that member has his or her principal place of practice.

(3) In an election by ballot the procedure is as follows:

(a) the secretary of a Regional Committee or the Executive Director is to prepare and send to each Full Member of the region at least 7 days prior to the date fixed for the Annual General Meeting of the Regional Committee, a ballot paper containing the following:

(i) the names in alphabetical order of the candidates nominated;

(ii) a box next to each candidate's name;

(iii) the number and nature of any office to be filled;

(iv) a statement of the requirement referred to in [subparagraph \(b\)](#) hereof;

(v) the address for return of the ballot paper; and

(vi) the day by which the ballot paper is to be returned, being the last business day in the region before the day fixed for the Annual Meeting of the Regional Committee;

(b) a Full Member is to place a number in the box next to each candidate's name in the order of the member's preference;

(c) a ballot paper is valid if it contains at least 1 vote (being a first preference vote for one candidate).

(4) At the Annual Meeting of a Regional Committee, the chairperson is to state the names of each candidate nominated.

(5) If there are no more than the required candidates, those candidates are to be declared councillors-elect.

(6) If there are more than the required number of candidates, any of the candidates in excess of the number to be elected may withdraw, or be, by their nominators with the consent of the meeting, withdrawn.

(7) Except as provided for in by-law 24(4)(b), a councillor-elect is to be appointed as a member of the Council at an Annual General Meeting of the Society, for a term of two years.

27. Scrutineers

- (1) If there has been an election by ballot, the chairman at the Annual General Meeting of the Regional Committee is to appoint 2 scrutineers from among the members present to receive and examine the ballot papers and to provide a report of the result of the election to the meeting.
- (2) A candidate or a nominator of a candidate may not be appointed as a scrutineer.

28. Determination of ballot

- (1) If the scrutineers do not agree as to the validity of any vote or ballot paper the chairperson is to give the final decision as to its validity.
- (2) The scrutineers are to count the first preference votes for each candidate.
- (3) If, after counting the number of first preference votes, there is a tie for a position to be filled, the ballot papers containing such first preference vote for each of the tied candidates are to be put to one side, and the second preference votes of the remaining ballot papers are to be counted, and so on, until there is a result.
- (4) If, after counting all of the preference votes, there remains a tie, there shall be a drawing of lots to determine the successful candidate or candidates provided that:
 - (a) the procedure for the drawing of lots shall be at the sole discretion of the chairman;
 - (b) the drawing of lots shall be undertaken by one or both of the scrutineers appointed in accordance with by-law 27 above; and
 - (c) the drawing of lots shall be undertaken in the presence of the members then attending at the said meeting.
- (5) The scrutineers are to provide a written report of the results of the election to the meeting, which report is to state:
 - (i) the total number of ballot papers received;
 - (ii) the number of ballot papers rejected;
 - (ii) the total number of votes in favour of each candidate.
- (6) The scrutineers are to destroy the ballot papers as soon as the votes have been counted and the result of the election has been reported to the meeting.
- (7) The successful candidates are to be declared councillors-elect.

Division 3 - Council meetings

29. Council meetings

- (1) The Council may convene a meeting of the Council at any time.
- (2) The president, vice-president or any 2 other members of the Council, by notice in writing, may require the Executive Director to convene a special meeting of the Council.
- (3) The Executive Director is to convene a special meeting requested under [subclause \(2\)](#) by notice in writing to the members of the Council specifying the subject to be considered at that meeting.
- (4) If the Executive Director refuses or fails to convene a special meeting after being requested, the president, vice-president or the 2 other members of the Council making the request may convene a meeting of the Council.
- (5) A resolution which, without being considered at a meeting of Council, is referred to all members of the Council by the president or vice-president and of which a majority of the members of the Council indicate to the president or vice-president that they are in favour is valid as if it had been passed at a meeting of the Council.

30. Council minutes

- (1) The Executive Director is to maintain a minute book of the minutes of the proceedings of each meeting of the Council.
- (2) Minutes of the proceedings of each meeting of the Council are to be taken by:
 - (a) the Executive Director; or
 - (b) in the absence of the Executive Director, a person appointed by the chairperson.
- (3) After a meeting, the minutes are to be copied into the minute book and, after confirmation, signed by the chairperson at the next meeting of the Council.

31. Attendance at meetings

- (1) The Executive Director is to prepare a list each year of those present at each meeting of the Council, showing how many times each person has attended at those meetings during the past year.
- (2) The Executive Director is to make the list available for inspection by the members.

32. Chairperson

- (1) At a meeting of the Council, the office of chairperson is to be filled by:
 - (a) the president; or

- (b) in the absence of the president, the vice-president; or
 - (c) in the absence of both the president and the vice-president, a Full Member of the Council chosen by the Full Members present at that meeting.
- (2) The chairperson of each meeting of the Council has a deliberative vote only and, in the event of an equality of votes, the motion is taken to be lost.

PART 5 - Executive Committee of the Council

Division 1 - Council members

33. Executive committee

- (1) The executive committee shall consist of –
 - (a) the president; and
 - (b) the vice-president; and
 - (c) the treasurer; and
 - (d) those Full Members of the Council who are appointed by the Council.
- (2) A member of the executive committee holds office from the conclusion of the first meeting of Council held after an Annual General Meeting of the Society to the conclusion of the first meeting of the Council held after the next Annual General Meeting of the Society, unless that member sooner dies or otherwise ceases to hold that office.
- (3) A member of the executive committee may resign by notice in writing to the Executive Director.
- (4) A member of the executive committee ceases to hold office if that member ceases to be a member of the Council.
- (5) If the office of a member of the executive committee appointed by the Council becomes vacant except by the expiration of the term for which that member was appointed, the Council may appoint another Full Member of the Council to the vacant office for the remainder of the predecessor's term of office.
- (6) If the office of a member of the executive committee held by the president, vice-president or treasurer becomes vacant except by the expiration of the term for which that member was appointed, the Council may elect another Full Member of the Council to the vacant office for the remainder of the predecessor's term of office.

34. Meetings of the executive committee

- (1) The president or vice-president may convene a meeting of the executive committee.
- (2) The quorum at any meeting of the executive committee is 3 members.

- (3) A question arising at a meeting of the executive committee is determined by a majority of votes of the Full Members present and voting.
- (4) The president is to preside at all meetings of the executive committee.
- (5) If the president is not present at a meeting of the executive committee, the vice-president is to preside at that meeting.
- (6) In the absence of both the president and the vice-president, a member of the executive committee chosen by the Full Members present at that meeting of the executive committee is to preside.
- (7) The person presiding at a meeting of the executive committee has a deliberative vote only and, in the event of an equality of votes, the motion is taken to be lost.
- (8) A resolution which, without being considered at a meeting of the executive committee, is referred to all members of the committee by the president or vice-president and of which a majority of the members indicate to the president or vice-president that they are in favour is valid as if it had been passed at a meeting of the executive committee.

35. Removal of officers

- (1) The Society, at any general meeting of the Society:
 - (a) may remove any elected officer of the Society before the expiration of his or her period of office by a majority of two-thirds of the members present; and
 - (b) by resolution, may appoint another person to hold office in that officer's place.
- (2) The person appointed under [subclause \(1\)\(b\)](#) holds office for the remainder of the period of office of the officer removed under [subclause \(1\)\(a\)](#) .

PART 6 - Regional Committee

36. Regional committees

- (1) The following Regional Committees are established:
 - (a) the Southern Regional Committee;
 - (b) the Northern Regional Committee;
 - (c) the North-Western Regional Committee.
- (2) The Full Members of each Regional Committee are to be elected by the Full Members in each region in the manner determined by those members.
- (3) An Annual Meeting of each Regional Committee is to be held for the election of councillors-elect for each region and the Executive Director shall ensure that each such meeting is held at least 7 days prior to the Annual General Meeting of the Society and that each member in the relevant region receives no less than 28 days' notice thereof.

PART 7 - Finance

37. Duties of treasurer

- (1) The treasurer must:
 - (a) collect and receive any money due to the Society; and
 - (b) deposit any money received in a bank account to the credit of the Society as soon as possible; and
 - (c) pay out of the Society's funds any account contracted by it; and
 - (d) keep correct accounts of any receipt or payment; and
 - (e) produce the accounts required by these by-laws at the Annual General Meeting of the Society; and
 - (f) carry out the instructions of the Society and the Council.
- (2) Any cheque drawn on the Society's bank account is to be signed by:
 - (a) any 2 members of the executive committee; or
 - (b) any member of the executive committee and the Executive Director.

38. Auditors

- (1) The Council is to appoint an auditor.
- (2) The auditor shall continue in office until:
 - (a) the close of the Annual General Meeting of the Society next after his or her appointment; or
 - (b) if the auditor's successor has not been appointed at the time of that meeting, until the appointment of his or her successor.

39. Accounts

- (1) The Council must:
 - (a) cause proper accounts to be kept of:
 - (i) the income and expenditure of the Society; and
 - (ii) the property, assets and liabilities of the Society; and
 - (b) cause those accounts to be:
 - (i) audited by the auditors at the end of each year ending on 30 June; and
 - (ii) if found correct, signed by the auditors.
- (2) The Council must cause the signed accounts to be made available for inspection by any member at the office of the Executive Director.
- (3) The treasurer must submit those accounts to the next Annual General Meeting of the Society after the end of the financial year to which they relate for approval by the meeting.
- (4) The chairperson is to sign the accounts if they are approved by the meeting.

- (5) The accounts approved under this clause are binding on all members.
- (6) The accounts may only be re-opened:
 - (a) if an error of \$1 000 or more is found and reported in writing to the Executive Director within one month after their approval; and
 - (b) in so far as is necessary to rectify that error.

PART 8 - Miscellaneous

40. Seal

The common seal of the Society may only be affixed:

- (1) by a resolution of the Council; and
- (2) in the presence of 2 members of the Council and the Executive Director.

41. Notices

A notice is sufficiently served upon a member by forwarding it to a member by pre-paid mail or by delivering it to a document exchange or by email, in each case in accordance with such details relevant to such member as are recorded in the Register of Members pursuant to paragraph 7(2)(c) herein, and such notice is deemed to have been received by such member on the second business day next following the day of posting or delivery or emailing respectively.

SCHEDULE 1 - Form of Proxy

I,
(Name)
of , appoint
(Address)
.....
(Name of proxy)
of , to vote and
(Address of proxy)
act on my behalf at the meeting of the Law Society of Tasmania
on..... 20 and each adjournment of that meeting.

.....
(Signature)

The foregoing by-laws were made at a meeting of the Council of the Law Society of Tasmania held on the 20th day of October 2012.

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 30 November 2012

These by-laws are administered in the Department of Justice.