



Law Council
OF AUSTRALIA

Business Law Section

Law Council of Australia

Business Law Section

By-laws

11 August 1995

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LAW COUNCIL OF AUSTRALIA

BY-LAWS OF THE BUSINESS LAW SECTION

Amendment
Date

28/5/87

1. NAME

- 1.1 The name of the Section shall be the Business Law Section ("Section") of the Law Council of Australia ("Law Council"). 28/5/87

2. LIMITATION

- 2.1 These By-laws are adopted subject to the Constitution of the Law Council. 28/5/87

3. INTERPRETATION

In these By-laws unless there is something in the subject or context inconsistent therewith:

- 3.1 "Chairman", "Deputy Chairman", "Treasurer" and "Secretary" severally mean the person for the time being holding the appropriate office in accordance with these By-laws.
- 3.2 "Law Council Executive" means the Executive for the time being of the Law Council.
- 3.3 "Section Executive" means the Section Executive for the time being of the Section established pursuant to these By-laws.
- 3.4 "Member" and "member of the Section" means a person whose name has been entered upon the Register of Members and whose name has not been deleted therefrom.
- 3.5 "present" when used of a member in relation to a meeting means present in person or by proxy.
- 3.6 "register" means the Register of Members of the Section maintained under these By-laws.
- 3.7 "registered address" of a member means the address of a member stated in the register, or, if he has given notice in writing to the Section of a changed address, the last address of which he has given such notice.
- 3.8 "these By-laws" include all amendments of and additions to amendments of and additions to these By-laws from time to time in force.

- 3.9 Words importing the singular shall include the plural and vice versa.
- 3.10 Words importing the masculine gender shall include the feminine gender.

4. OBJECTS

The object of the Section shall be to further the objects of the Council on matters within the jurisdiction of the Section and in furtherance thereof to promote professional discussion, consultation and study of such matters and to make recommendations thereon where appropriate to the Law Council Executive.

5. MEMBERSHIP

- 5.1 All persons who are individual members of the Law Council shall be eligible for membership of the Section. 28/5/87
- 5.2 Membership of the Section shall also be open to such other categories of persons, if any, as determined by the Section Executive and approved by the Law Council Executive. 28/5/87
- 5.3 Any eligible person may lodge with the Secretary an application for membership of the Section in the form prescribed by the Section Executive together with the appropriate fee. 22/4/89
- 5.4 If it appears to the Secretary that an applicant is eligible for membership of the Section and the appropriate fee has been paid, the Secretary shall: 22/7/89
- enter the name of the applicant in the register together with such other details as are required to be entered into the register; and
 - notify the applicant accordingly.
- 5.5 A member shall cease to be a member of the Section if he: 28/5/87
- (a) ceases to be eligible for membership
 - (b) resigns his membership by notice in writing left at or sent by post to the Secretary
 - (c) fails to pay the moneys due by him to the Law Council within a period of one month after notice in writing by the Law Council sent to him not less than 3 months after the moneys become due and payable.
- 5.6 Upon termination of membership of any members, the name of such person shall be removed from the Register.
- 5.7 The Section shall keep a register of members which shall contain the full name of each member, the last postal address of which he has given notice in writing to the Secretary, the date of his

admission to membership, his qualifications for membership and the date of the cessation of his membership. In any dispute or proceeding involving the Section and any of its members, the Register shall be prima facie evidence of the matters contained thereon.

- 5.8 Fees for membership in this Section shall be amounts set by the Section Executive and approved by the Law Council Executive and shall be payable upon enrolment and thereafter annually in advance each year at the beginning of the Law Council's financial year provided that in respect of a new member where the period from the date upon which he joins the Section to the end of the current financial year is less than six months, he shall pay an amount equal to half the membership fee which would otherwise be payable by him. Fees for membership in this Section shall be in addition to fees which members may be liable to pay from time to time for membership of the Law Council as individual members. 28/5/87

6. SECTION EXECUTIVE

28/5/87

- 6.1 There shall be a Section Executive of the Section which shall conduct and supervise the activities, programmes and affairs of the Section as are not inconsistent with these By-laws and the Constitution of the Law Council.
- 6.2 The Section Executive shall consist of: 28/5/87
- 6.2.1 A member of the Section nominated from time to time by the Executive of the Law Council if it so chooses. 23/11/83
- 6.2.2 Not less than 5 nor more than 9 members of the Section elected in the manner hereinafter provided. 23/11/83
- 6.2.3 Such members of the Section as are appointed by the Section Executive in accordance with By-law 6.9. 28/5/87
- 6.2.4 Such members of the Section as are appointed by the Section Executive in accordance with by-law 6.10. 22/4/89
- 6.3 The members of the Section Executive whose election is declared at an Annual General Meeting shall take office at the conclusion of that meeting, and their term of office shall expire at the conclusion of the second Annual General Meeting after their election. 28/5/87
- 6.4 A vacancy on the Section Executive shall arise: 28/5/87
- (i) on the death or resignation of a member of the Section Executive; 28/5/87
- (ii) on any member of the Section Executive being absent from 3 consecutive meetings of the Section Executive without special leave of absence been granted by the Section Executive to the absent member; 28/5/87

- (iii) on a member of the Section Executive ceasing to be a member of the Section; or 28/5/87
- (iv) on a determination by a majority of the Section Executive that a member of the Section Executive should cease to be a member of the Section Executive because of incapacity likely to continue for a period in excess of 6 months; 28/5/87
in which case the vacancy shall be filled by an appointment by the Section Executive, such appointee to be a resident of the State or Territory in which the replaced member resided. 15/11/82
- 6.5 The Section may by a majority vote at a special meeting of members of the Section remove any member of the Section Executive (other than the Law Council nominee) and may by majority vote appoint another person in his stead such person being a resident of the State or Territory in which the removed member resided. 28/5/87
- 6.6 Any person appointed as a member of the Section Executive shall, subject to By-laws 6.5 and 6.6 and 6.10, hold office until the next succeeding general election of members of the Section Executive. 22/4/89
- 6.7 Only a person who is a member of the Section shall be eligible to serve as a member of the Section Executive. 28/5/87
- 6.8 The Section Executive may appoint alternate members of the Section Executive to act in the place of any member of the Section Executive in relation to whom leave of absence has been granted, such alternate member to be a resident in the State or Territory in which the absent member resides. 28/5/87
- 6.9 Where as a result of an election of the Section Executive there are no elected members of the Section Executive from any State or Territory, the Section Executive may appoint as a member of the Section Executive a member of the Section resident in that State or Territory. 28/5/87
- 6.10 The Section Executive may appoint as members of the Section Executive any persons who are members of the Section to serve for such term as the Section Executive may determine at the time of appointment provided that any members so appointed shall retire no later than the next succeeding general election of members of the Section Executive. 22/4/89

7. ELECTION OF SECTION EXECUTIVE 28/5/87

- 7.1 The members of the Section Executive shall be elected by postal ballot by the members of the Section. 28/5/87
- 7.2 The election of members of the Section Executive shall be conducted by the Secretary who shall be the Returning Officer.
- 7.3 Not less than two months prior to the Annual General Meeting in each year in which an election of the Section Executive is to be held the Secretary shall call for nominations for election to the 28/5/87

Section Executive by notice in writing to the members of the Section.

- 7.4 When calling for nominations the Secretary shall specify:
- (a) the form which nomination shall take
 - (b) the date by which nominations must be received by the Secretary.
- 7.5 Not less than one month prior to the Annual General Meeting in each year in which an election of the Section Executive is to be held the Secretary shall send to each member of the Section a ballot paper containing the names of those persons who have been validly nominated together with: 28/5/87
- (a) such explanatory information as is necessary to assist the members to complete the ballot paper
 - (b) a brief profile of each candidate
 - (c) notification of the date by which ballot papers must be returned to the Secretary
 - (d) such other documentation as the Secretary may determine.
- 7.6 The election of members of the Section Executive shall be on the "first past the post" basis. 28/5/87
- 7.7 Not more than three members residing in anyone State or Territory of Australia shall be elected as members of the Section Executive. 28/5/87
- 7.8 No election of a Section Executive shall be invalidated as a result of any member of the Section not receiving either a notice calling for nominations or a ballot paper. 28/5/87
- 7.9 The results of an election shall be declared at the Annual General Meeting.

8. OFFICERS

- 8.1 The officers of the Section shall be a Chairman, Deputy Chairman and Treasurer.
- 8.2 The Chairman, Deputy Chairman and Treasurer shall be elected by a majority vote of the Section Executive. The election of the Chairman, Deputy Chairman and Treasurer shall take place immediately following the election of the Section Executive. The term of office shall be one year, commencing at the close of the annual general meeting of the Section. 28/5/87
- 8.3 Officers of the Section shall be members of the Section and of the Section Executive and shall be eligible to remain members during their entire term of office. 28/5/87

- 8.4 The Chairman shall preside at all meetings of the Section and of the Section Executive. He shall prepare a report for each Annual General Meeting of the Law Council on the work of the Section for the preceding year. He shall appoint, with the advice and consent of the Section Executive, the Chairmen of all Committees of the Section who are to hold office during his term as Chairman. He shall keep the Council fully informed of the programmes and activities of the Section and shall carry out the decisions of the Council. He shall be responsible for making all approved public statements of the Section in consultation with the President and Secretary-General of the Law Council. He shall perform such other duties assigned to him by the Section or as may be designated by the Law Council or the Law Council Executive. 28/5/87
- 8.5 The Deputy Chairman shall perform such duties as may be assigned to him by the Chairman. He shall act as Chairman and perform the duties of the Chairman during any period in which the Chairman is unable or refuses to act. The Deputy Chairman shall perform such further duties and have such further powers as may be assigned to him by the Section or the Law Council, or the Law Council Executive.
- 8.6 The Treasurer shall be responsible for the preparation of the financial report for the period of his term of office for submission to the Annual General Meeting of the Section. He shall prepare a budget for the Section for submission to the Law Council Executive each financial year. He shall keep an accurate record of all monies appropriated to and extended for the use of the Section.

9. SECRETARY

- 9.1 An officer of the Secretariat of the Law Council be appointed the Secretary of the Section.
- 9.2 The Secretary shall consult with and assist all officers of the Section with regard to the work of the Section. The Secretary shall be the custodian of all 'books, papers, documents and other property of the Section, except money. He shall keep a true record of the proceedings of all meetings of the Section and the Section Executive, He shall in conjunction with the Chairman, as authorised by the Section Executive, attend generally to the business of the Section. 28/5/87

10. GENERAL MEETINGS

- 10.1 The annual general meeting of the Section shall be held once in each calendar year at a time determined by the Law Council Executive or, failing that, the Section Executive. All other general meetings shall be called special meetings. At the annual general meeting, reports and recommendations of the Section Executive and committees of the Section shall be delivered to the members and consideration shall be given to the activities of the Section during the forthcoming year. 28/5/87

- 10.2 Special meetings of the Section may be called by the Law Council Executive or the Section Executive at any time. The Section Executive shall convene a special meeting on the requisition of twenty per centum of members.
- 10.3 Twenty-one days notice of a general meeting at least (exclusive of the day on which the notice is served or deemed to be served but inclusive of the day on which the notice is given) specifying the place, the day and the hour of meeting and the general nature of the business shall be given to all members of the Section. The accidental omission to give notice of a meeting to or the non-receipt of a notice of meeting by any person entitled shall not invalidate the proceedings at any meeting.
- 10.4 All meetings shall be open to all members of the Section.
- 10.5 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business; save as herein otherwise provided six persons present in person or by proxy shall be a quorum.
- 10.6 If within thirty minutes from the time appointed for the meeting, a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved. In any other case it shall stand adjourned to the same day in the next week (or if that day be a bank or other public holiday, then to the next business day following that holiday) at the same time and place and if at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting the meeting shall be dissolved.
- 10.7 The Chairman or in his absence the Deputy Chairman shall preside as Chairman at every general meeting of the Section.
- 10.8 If neither the Chairman nor the Deputy Chairman is present within thirty minutes after the time appointed for holding the meeting or if being present he or they is or are unwilling to act as Chairman, those present shall choose one of their number to be Chairman.
- 10.9 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.
- 10.10 At any general meeting a resolution put to the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (i) by the Chairman of the meeting; or

- (ii) by not less than five members entitled to vote on the resolution and who are present at the meeting.

Unless a poll is so demanded, a declaration by the Chairman that a resolution has been carried or carried by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Section shall be conclusive evidence to the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. In the event of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting shall have a second or casting vote in addition to the vote to which he may be otherwise entitled.

- 10.11 If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval adjournment or otherwise as the Chairman of the meeting directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded. No poll may be demanded on the question of a Chairman of the meeting or on a question of adjournment.
- 10.12 Every member present in person or by his proxy shall have one vote on a show of hands and on a poll shall have a vote for himself and each proxy.

11. PROCEEDINGS OF SECTION EXECUTIVE

- 11.1 The Section Executive may meet together for the despatch of business adjourn and otherwise regulate its meetings as it thinks fit. The Chairman may at any time and the Secretary shall on the requisition of any 3 members of the Section Executive summon a meeting of the Section Executive. 28/5/87
- 11.2 Questions arising at any meeting of the Section Executive shall be decided by a majority of votes and a determination by a majority of Section Executive Members shall for all purposes be deemed a determination of the Section Executive. In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote. 28/5/87
- 11.3 The quorum necessary for the transaction of the business of the Section Executive shall be at least half the members of the Section Executive present in person or by proxy. 28/5/87
- 11.4 The Chairman shall act as Chairman of all meetings of the Section Executive and in his absence the Deputy Chairman, but if the Chairman and the Deputy Chairman are not present, the Committee members present may choose one of their number to be Chairman of the meeting. 28/5/87

12. COMMITTEES

23/11/83

- 12.1 The Section Executive may establish such Committees as it considers necessary for carrying on the activities of the Section. The Section Executive shall determine the broad areas within 28/5/87

which each Committee may operate, and may fix a maximum number for the membership of any Committee.

- 12.2 The Section Executive shall appoint and may from time to time remove the Chairman of each Committee. 28/5/87
- 12.3 The Chairman of the Section Executive may in consultation with the Chairman of a Committee appoint or remove members of a Committee. A Committee may co-opt additional members for a period not exceeding one year to assist it to deal with particular matters. 28/5/87
- 12.4 Only members of the Section shall be eligible to be a Chairman of a Committee or appointed a member or co-opted as a member of a Committee. 23/11/83
- 12.5 A Committee may nevertheless permit a person who is not a member of the Section to attend meetings of a Committee as an observer on such terms as the Committee with the approval of the Chairman of the Section Executive may determine. 28/5/87

13. SECTION EXECUTIVE AND OTHER COMMITTEES

A resolution in writing signed by all members for the time being of the Section Executive or of any Committee of the Section shall be as valid and effectual as if it had been passed at a meeting of the Section Executive or of such Committee (as the case may be) duly convened and constituted. Any such resolution may consist of several documents in like form signed by one or more members. 28/5/87

14. COMMUNICATIONS

- 14.1 Any report or recommendation of the Section Executive or other Committee of the Section shall be approved by the Law Council Executive before the same becomes effective as a report or recommendation of the Law Council. 28/5/87
- 14.2 Neither this Section or its Section Executive or any member thereof shall publish or communicate or be permitted to publish or communicate any report, resolution, policy or expression of view to any persons or bodies including governments as being or in a manner which could be taken as being the report, resolution, policy or view of the Law Council, the constituent bodies of the Law Council or the majority of the members of the constituent bodies of the Law Council except in such manner as shall be approved from time to time for such communications by the Law Council Executive. 28/5/87

15. FINANCE

- 15.1 The Section shall present an annual budget at such time as requested by the Treasurer of the Law Council and in any event in

time for approval by the Law Council Executive prior to the commencement of the Law Council's financial year.

- 15.2 Accounts for the Section shall be maintained operated and audited as part of the Law Council accounts.
- 15.3 No bank or other account shall be opened or operated without prior approval in writing of the Treasurer of the Law Council.
- 15.4 The signatories to all banking and other similar accounts of the Section shall be such persons as the Section Executive with the approval of the Treasurer of the Law Council shall decide from time to time. 28/5/87
- 15.5 No officer or member of the Section other than the Chairman or such persons as are expressly designated by the Chairman shall have authority to incur any liability in the name of the Section and shall only incur liabilities within the budget referred to in 15.1.

16. NOTICES

- 16.1 A notice may be given by the Section to any member either personally or by sending it by post to him to his address registered in the Register
- 16.2 The Section shall not be required to send a notice to any address outside Australia.
- 16.3 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing prepaying and posting a letter or wrapper containing the notice and shall be deemed to have been effected on the day following the date on which the notice is posted. A certificate in writing signed by a Section Executive member or the Secretary that the letter or wrapper containing the notice was so addressed prepaid and posted shall be conclusive evidence thereof. 28/5/87

17. AMENDMENT OF BY-LAWS

Subject to approval by the Law Council Executive, the By-laws may be amended deleted or added to by a majority vote of those present and voting at any general meeting.

18. DURATION

If the Law Council Executive resolves prior to 30 April in any year that the Section shall cease the Section shall cease to be constituted under these By-laws on 30 June of the calendar year in which the resolution is passed and shall thereupon be disbanded.