

(2) The *Factories, Shops, and Offices Act 1958*, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section seventy-three of the Principal Act is amended by omitting therefrom the numerals "1962" and substituting therefor the numerals "1964". Expiry of Act.

LAW SOCIETY.

No. 27 of 1962.

AN ACT to provide for the incorporation of one law society in Tasmania. [1 October 1962.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Law Society Act 1962*. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

2—(1) The *Tasmanian Law Societies Act 1887* is repealed. Repeal.

(2) This section does not affect—

- (a) any rules made under paragraph I of subsection (3) of section twelve of the repealed Act, which shall continue in force as if made under section fourteen of this Act;
- (b) any liability of a practitioner under section twelve B of the repealed Act, in respect of which proceedings may be had and taken under this Act;
- (c) any proceedings in progress under section twelve B of the repealed Act or an appeal or right of appeal under that Act, which proceedings or appeal may be prosecuted under this Act; or
- (d) any order made under section twelve B of the repealed Act.

3 In this Act, unless the contrary intention appears— Interpretation.

"barrister" includes advocate;

"committee" means the disciplinary committee under section fifteen;

"council" means the council of the Society;

"Court" means the Supreme Court;

"member" means a member of the Society;

"practitioner" means a barrister and solicitor or a barrister;

“Registrar” means the Registrar of the Court;
 “repealed Act” means the Act repealed by section two;
 “Society” means the Law Society of Tasmania;
 “solicitor” includes attorney and proctor.

The Law
 Society.
 No. 6291
 (Vic.), s. 16.

4—(1) There shall be a body corporate by the name of “The Law Society of Tasmania” with perpetual succession and a common seal.

(2) The Society shall consist of all practitioners who at the commencement of this Act are members of the Northern Law Society or the Southern Law Society or who thereafter become members, so long as they continue to be members.

Corporate
 powers.
Ibid., s. 17.

5 The Society may by its corporate name sue and be sued, acquire, receive, and hold real and personal property, convey, transfer, demise, exchange, and otherwise dispose of or mortgage its property, and, subject to this Act, do all such other things as it deems expedient for effectuating its objects.

Members.

6—(1) Subject to this Act and the by-laws and rules of the Society, every practitioner is entitled to be a member.

(2) Subject to this Act the following persons shall be members:—

- (a) Practising barristers;
- (b) Practising barristers and solicitors; and
- (c) Persons resident in the State who are entitled to act as barristers under section eighteen A of the *Legal Practitioners Act 1959*,

and shall pay the fees, levies, and subscriptions required of members by the by-laws of the Society.

(3) For the purposes of this section—

- (a) a barrister shall be deemed to practise if he—
 - (i) is in the service of the Crown or the Commonwealth as counsel; or
 - (ii) being in practice in another jurisdiction, has not had his name put on the non-practising list kept under the Rules of Practice; and

(b) a barrister and solicitor shall be deemed to practise if he is—

- (i) in the service of the Crown or a public authority holding an office in which he appears as counsel or solicitor, draws conveyances, parliamentary bills, statutory rules or other instruments, or gives legal opinions or advice;
- (ii) in the service of any corporation for which he appears in any court as solicitor; or
- (iii) employed as a solicitor by a practising barrister and solicitor.

(4) In addition to members the Society may have associate members with such rights (other than voting rights) and duties as the by-laws and rules of the Society provide.

(5) The following persons, if not required to be members by subsection (2), may, if the by-laws of the Society so permit, be associate members:—

- (a) Judges;
- (b) Practitioners;
- (c) Barristers, advocates, attorneys, solicitors, proctors, notaries, and similar persons of any British or foreign jurisdiction or court; and
- (d) Graduates in law of any British or foreign university.

7 If any member in consequence of a judgment or order of any court of competent jurisdiction is rendered incapable of practising in the Court or in the High Court of Australia or in any of the superior courts of justice in any part of Her Majesty's dominions he shall forthwith cease to be a member during such period as he is incapable of so practising.

Disqualification.
Ibid., s. 20.

8—(1) There shall be a council of the Society consisting of sixteen members of whom—

The council.
Ibid., s. 21.

- (a) eight shall have their principal place of practice in the Southern Division; and
- (b) eight shall have their principal place of practice in the Northern Division.

(2) The Society may by its by-laws provide that a casual vacancy in the council may be filled by the council.

(3) A quorum of the council shall consist of six members.

(4) The continuing members of the council may (if there is a quorum) act notwithstanding any vacancy in their number and no act done by or by the authority of the council is invalid in consequence of any defect that is afterwards discovered in the election or qualification of the members or any of them.

9 Subject to any by-laws or rules of the Society for the purpose, the council may convene general meetings of the Society at such times and places and in such manner as the council thinks fit.

Power to call general meetings.
Ibid., s. 22.

10—(1) Subject to this Act and the by-laws of the Society, the council—

General powers of the council.
Ibid., s. 23.

- (a) has the sole management of the Society and of the affairs and concerns and the funds, income, and property thereof for the purposes and benefit of the Society;
- (b) may make rules of the Society in pursuance of any power in that behalf conferred by by-laws of the Society; and

- (c) may exercise all powers vested in the Society and do all such acts and things as are by this Act directed or authorized to be done by the Society, excepting only such powers, acts, and things as are expressly required by this Act or the by-laws to be exercised or done by the Society in general meeting.

(2) Notwithstanding anything in this Act, the by-laws of the Society may authorize the council to delegate to committees, which may consist of one or more members of the Society, any of the powers of the council other than the power of delegation.

By-laws.
Ibid., s. 24.

11—(1) Subject to this Act the Society in general meeting may make by-laws for or with respect to—

- (a) defining the objects of the Society;
 - (b) the regulation and good government of the Society and of the members and affairs thereof;
 - (c) the time, place, and management of, and regulation of proceedings at, meetings of the Society or of the council or of any committee of the council, and the management, regulation, and transaction of the business of the Society or the council or any committee of the council;
 - (d) the convening of ordinary and special meetings of the Society;
 - (e) the election of the president, vice-president, and treasurer of the Society by the council, and the election of other members of the council and their tenure of office and the filling of any casual vacancies;
 - (f) the custody and use of the common seal of the Society;
 - (g) the admission, resignation, and expulsion of members of the Society;
 - (h) the re-entry of persons who have ceased to be members;
 - (i) fees, levies, and subscriptions payable in respect of membership;
 - (j) empowering the council to make rules of the Society for any purposes specified in the by-laws; and
 - (k) generally all matters necessary or convenient for carrying the objects of the Society in full and complete effect.
- (2) The by-laws of the Society may—
- (a) give the council or a committee power to fix fees, levies, and subscriptions with power to differentiate between classes of members in different circumstances, and to give directions for the custody of the common seal of the Society;
 - (b) provide for different fees, levies, and subscriptions for classes of members in different circumstances; and

- (c) require persons making complaints to the council to verify them by statutory declaration.

(3) The by-laws set forth in the schedule shall be the first by-laws of the Society and may be amended, added to, rescinded, or replaced only if the resolution therefor is confirmed in accordance with the following provisions:—

- (a) Within three weeks after the resolution is passed a copy thereof together with a voting paper and notice of a time not less than five nor more than seven weeks after the resolution is passed and a place at which voting papers will be received shall be delivered or sent by post to all members;
- (b) The council shall cause the voting papers received at that time and place to be examined and counted; and
- (c) If not less than three-quarters of the voting papers so received are in favour of the resolution it is confirmed, but otherwise it is of no effect.

(4) If none of the by-laws set forth in the schedule remain in force, the Governor may by proclamation repeal the schedule.

12—(1) The council may appoint any practitioner to appear before any court in any matter affecting the Society or the members thereof or in which the Society is directly or indirectly concerned or interested. Right of audience. *Ibid.*, s. 25.

(2) A practitioner so appointed shall have audience in any court in any such matter, including (without limiting the generality of subsection (1) of this section)—

- (a) the conducting of any prosecution or other proceedings instituted by the Society;
- (b) moving that any practitioner be suspended from practice or be struck off the roll or be called upon to answer any matters alleged or contained in any affidavit or be otherwise dealt with on the ground of misconduct; and
- (c) the admission of legal practitioners.

13—(1) The president or vice-president of the Society or any other person duly authorized by the council in that behalf may institute prosecutions and other proceedings in the name of the Society for the breach of any statute or rule of any court relating to the practice of the law or to the preparation of deeds or instruments relating to real or personal property. Institution of proceedings on behalf of Society. *Ibid.*, s. 26.

(2) Unless it is proved to the contrary every such prosecution or other proceeding shall be deemed to be instituted by and on behalf of the Society.

14—(1) The council may make rules to be known as the Rules of Practice— Rules of practice. 51 Vict. No. 25, s. 12 (2).

(a) as to the opening and keeping by legal practitioners of accounts at banks for clients' money;

- (b) as to the keeping by legal practitioners of accounts containing particulars and information as to moneys received, held, or paid by them for or on account of their clients;
- (c) empowering the council to take such action as may be necessary to enable it to ascertain whether or not the rules are being complied with; and
- (d) for regulating in respect of any other matter the professional practice, conduct, and discipline of practitioners, including, among other things, requiring the exercise and penalising the lack of diligence and expedition in clients' business.

(2) The Rules of Practice shall provide—

- (a) for the keeping of lists of practising and non-practising barristers; and
- (b) that barristers on the non-practising list shall not practise until they have applied for the transfer of their names to the practising list.

Disciplinary
committee.
Ibid., s. 12A.

15—(1) There shall be a disciplinary committee of five members appointed as provided in subsections (2) and (4) of this section.

(2) The disciplinary committee existing under section twelve A of the repealed Act at the commencement of this Act continues in office for the purposes of this Act, the members thereof holding office for the remainder of the term for which they were appointed.

(3) The Society shall as occasion requires lodge with the Registrar a list of twelve of its members capable of serving on the committee.

(4) The Court, with the consent of a majority of the judges, shall appoint from among the persons whose names have been lodged as provided in section twelve A of the repealed Act or in subsection (1) of this section to vacancies in the committee, and may from time to time remove any member from the committee.

(5) The members of the committee shall be appointed for five years, but if any casual vacancy occurs the appointment shall be made for the remainder of the term of the member whose place is to be filled.

(6) The committee may act and function by any three or more of its members and notwithstanding one vacancy or two vacancies therein.

Powers of
committee.
Ibid., s. 12B.

16—(1) Any application by a practitioner to procure his name to be removed from the roll or by another person to strike the name of a practitioner off the roll or to require a practitioner to answer allegations contained in an affidavit or a complaint of failure to observe any Rule of Practice may be made to and heard by the committee in accordance with rules made under section seventeen.

(2) On the hearing of an application to which subsection (1) of this section relates the committee has power to make any such order—

- (a) as to removing from or striking off the roll the name of a practitioner to whom the application relates;
- (b) as to suspending him from practice;
- (c) for imposing on him a penalty not exceeding one thousand pounds;
- (d) as to the payment by any party of costs; and
- (e) otherwise in relation to the case,

as the committee may think fit.

(3) Any penalty imposed under this section shall be forfeited to the Society.

(4) Nothing in this section—

- (a) affects the jurisdiction which apart from the provisions of this section is exercisable by the Court or any judge over practitioners; or
- (b) applies to practitioners who are not solicitors.

17—(1) The committee, with the concurrence of the judges or any three of them, may make rules for regulating the making, hearing, and determining of applications to the committee under section sixteen. Procedure of the committee. *Ibid.*, s. 12c.

(2) For the purposes of any application made to it under section sixteen the committee may administer oaths and the applicant and the practitioner to whom the application relates may sue out writs of subpoena *ad testificandum* and *duces tecum*; but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

18—(1) Every order made by the committee under section sixteen shall be prefaced by a statement of its findings in relation to the facts of the case and shall be signed by its chairman and filed with the Registrar; and as soon as it has been so filed shall be acted upon by the Registrar and be enforceable in the same manner as a judgment or an order of the Court to the like effect. Filing, effect, and notice of orders made by the committee. *Ibid.*, s. 12b.

(2) Where by any order under section sixteen the name of a practitioner is ordered to be removed from or struck off the roll or a practitioner is suspended from practice the Registrar shall forthwith upon the filing of the order cause a notice stating the effect of the operative part thereof to be published in the *Gazette*.

(3) The file of orders made by the committee under section sixteen may be inspected by any person during office hours without payment.

19—(1) An appeal against any order made by the committee under section sixteen lies to the Court at the instance either of the applicant or the practitioner to whom the application relates. Appeals. *Ibid.*, s. 12e.

(2) Subject to the provisions of subsection (4) of this section, an appeal under this section shall be made within such time and in such form and shall be heard in such manner as may be prescribed by the Rules of Court.

(3) On the hearing of any appeal under this section the Court may make any order which the committee is empowered by section sixteen to make, and may deal with the costs of and incidental to the appeal in any manner it thinks fit.

(4) A practitioner who is entitled to appeal under this section against an order that his name be removed from or struck off the roll may in lieu of appealing as provided in this section set the application against him down as prescribed by the Rules of Court for hearing *de novo* by the Court and thereupon—

- (a) the order of the committee shall cease to operate unless confirmed by the Court;
- (b) the practitioner shall be disentitled to practise until the matter is disposed of; and
- (c) the Court shall hear and determine the application *de novo*, and may—
 - (i) in addition to its ordinary powers exercise any powers that the committee might exercise in similar circumstances;
 - (ii) confirm the order of the committee or make any other order that the committee might make; and
 - (iii) make such order as to the costs of the proceedings both before the committee and before the Court, as to the Court seems proper.

Rights and liabilities of dissolved corporations.

20 All property, rights, and liabilities of the United Law Council of Tasmania, the Northern Law Society, and the Southern Law Society vest in and are imposed on the Society and may be enjoyed, claimed, and enforced by and against it by its corporate name.

Transitory provisions.

21—(1) Until elections can be held of office-bearers and councillors of the Society—

- (a) the members of the United Law Council of Tasmania at the commencement of this Act shall constitute the council (in this section called “the provisional council”);
- (b) the provisional council may act so long as—
 - (i) it has five members; and
 - (ii) a majority of its membership is present at the meeting; and

(c) there shall be—

- (i) a provisional president;
- (ii) a provisional vice-president;
- (iii) a provisional treasurer; and
- (iv) a provisional secretary,

appointed by the provisional council who shall act as the president, vice-president, treasurer, and secretary, respectively, of the Society.

(2) If before the commencement of this Act the United Law Council of Tasmania has—

- (a) made any appointments for the purposes of paragraph (c) of subsection (1), they shall be deemed to have been made by the provisional council at the commencement of this Act; or
- (b) taken any steps for convening the first general meeting of the Society, they shall have the same effect as if this Act had commenced before they were taken.

THE SCHEDULE.

(Section 11.)

BY-LAWS OF THE LAW SOCIETY OF TASMANIA.

PART I—PRELIMINARY.

1. These by-laws may be cited as the *Law Society By-laws 1962*. Short title.
2. In these by-laws, unless the contrary intention appears— Interpretation.
 - “Northern Region” means the Northern Division of the State, the North-Western Region and the Municipalities of Zeehan and Glamorgan excluded, and the Municipality of Ross included;
 - “North-Western Region” means the Municipalities of Latrobe, Devonport, Kentish, Ulverstone, Penguin, Burnie, Wynyard, Waratah, and Circular Head;
 - “secretary” means the secretary of the Society, and includes any deputy or person temporarily fulfilling the duties of the office;
 - “Southern Region” means the Southern Division of the State, the Municipality of Ross excluded and the Municipalities of Zeehan and Glamorgan included;
 - “the Act” means the *Law Society Act 1962*;
 - “treasurer” means the honorary treasurer of the Society.
3. The objects of the Society are— Objects.
 - (a) to originate and promote reform and improvement in the law and its practice, and in the administration of justice, to consider proposed alterations, and oppose or support the same, and for those purposes to petition Parliament or take such other proceedings as may be deemed expedient;
 - (b) to represent generally the views of the legal profession, preserve and maintain its integrity and status, to suppress dishonourable conduct and practices, to provide for the amicable settlement or adjustment of professional disputes, and to consider and deal with all matters affecting the professional interest of members;
 - (c) to encourage and promote the study of law and to provide means for securing efficiency and responsibility on the part of those seeking admission to the profession;

- (d) to form and maintain law libraries and reading rooms in Hobart, Launceston, Devonport, Burnie, and such other places as the council shall decide;
- (e) to acquire any rights or privileges which the Society may regard as necessary or convenient for the purposes thereof, or for promoting the interests of the profession;
- (f) to form and maintain club rooms or a club for the use and benefit of members;
- (g) to purchase, take on lease or in exchange, hire, or otherwise acquire any real or personal property and to erect any building required for the purposes of the Society;
- (h) to invest the funds of the Society not immediately required upon such securities as may from time to time be determined by the council;
- (i) to raise money in such manner as the Society shall think fit and in particular by the issue of debentures charged upon all or any of the property of the Society;
- (j) to sell, improve, lease, mortgage, exchange, dispose of, or otherwise deal with all or any part of the property of the Society;
- (k) to set up and maintain a superannuation fund for the benefit of practitioners, employees or former employees of practitioners or of the Society, or any of them and their respective dependants;
- (l) to guarantee obligors of fidelity bonds given for the purposes of Part VI of the *Legal Practitioners Act 1959* against liability thereon and to impose levies on members to meet such guarantees;
- (m) to give fidelity bonds for the purposes of that Part and to insure against liability thereon;
- (n) to appoint regional committees to deal with local and domestic matters in the North-Western, Northern and Southern Regions respectively; and
- (o) to do all such things as are incidental or conducive to the attainment of the above objects or are authorized by the Act.

PART II—MEMBERSHIP.

Members
under s. 6
(2).

4. Practitioners who are members by virtue of subsection (2) of section six of the Act shall on qualifying for membership so notify the secretary in writing, and upon proof of qualification shall be admitted to membership by the council.

Other
members.

5. Other practitioners entitled to be members under subsection (1) of section six of the Act shall apply to the secretary in writing for admission, and upon proof of qualification shall be admitted to membership by the council.

Associate
members.

6.—(1) Any person capable of becoming an associate member under subsection (5) of section six may be elected by the council on a nomination in writing signed by the proposed associate member and two members of the Society and delivered to the secretary.

(2) An associate member—

- (a) shall pay the annual subscription as provided in by-law 40;
- (b) may if he has paid a library subscription for the relevant period use any of the Society's libraries; and
- (c) may take part in or use any of the Society's social activities or facilities, as if he were a member.

Register of
members.

7.—(1) A register shall be kept by the secretary in which the names of all practitioners who are members, together with their professional and private addresses, shall be entered in such manner as the council determines.

(2) No name shall be erased from the register except by order of the council duly entered in the minutes.

8.—(1) A member who changes his chambers or place of practice shall immediately give notice thereof in writing to the secretary. Change of address.

(2) If a member has no chambers or place of practice, his place of abode shall be deemed to be his place of practice for the purposes of these by-laws.

9. Every letter or notice relating to any matter concerning the Society which is sent by the council or secretary to a member by the post addressed to him by his name and chambers or place of practice as entered in the register shall be deemed to have been properly sent, and he shall be deemed to have sufficient notice of the contents of the letter or notice. Notices.

10.—(1) The council may at a special meeting expel any member, or may expel any member of the council from his position as such member, for conduct derogatory to the profession or for refusing to conform to the by-laws or to any resolution of the council if— Expulsion.

(a) each member of the council has had previous notice that the question of his expulsion was to be considered at that meeting; and

(b) the member whose expulsion is about to be considered has had due notice that the question of his expulsion would be considered at that meeting of the council.

(2) A member whose expulsion is to be considered is entitled to attend before the council for the purpose of—

(a) hearing and answering any charge that may be preferred against him;

(b) questioning the evidence in support thereof;

(c) disproving and answering the charge or evidence; or

(d) giving an explanation or making any statement he may think fit,

and he shall thereupon retire and the council shall make its decision.

(3) A member who has been expelled by the council has a right of appeal to a special general meeting of the Society on his giving notice in writing to the secretary within twenty-one days of his receipt of the decision of the council of his wish to appeal, and the council on receipt of such notice shall forthwith call a special general meeting in the manner provided by by-law 15 to deal with his appeal.

11. Any—

(a) legal practitioner who has been struck off the roll of the Court; Effect of striking off. &c.

(b) barrister who has been disbarred; or

(c) person who ceases to be entitled to act as a barrister under section eighteen A of the *Legal Practitioners Act 1959*,

thereupon ceases to be a member and the council shall cause his name to be erased from the register of members.

12. By-laws 7, 8, 9, and 10 apply to associate members as if they were members, except that they have no right of appeal to a special general meeting. Application to associate members.

PART III—GENERAL MEETINGS.

13.—(1) The annual general meeting of the Society shall be held in the month of August, September, or October in every year on a day and at an hour and place to be appointed by the council of which notice shall be given as provided in by-law 15, and if from any cause the meeting is not so held then it shall be held on such day at such hour and place as the council may appoint. Annual general meeting.

(2) The business at an annual general meeting shall be—

(a) the reception of the accounts submitted by the treasurer for approval;

(b) election of members of the council and auditors;

- (c) the reception of the annual report of the council; and
- (d) the disposal of business introduced by the council and of any other business whereof at least 28 days' notice in writing has been given to the secretary prior to the meeting.

Special
general
meetings.

14.—(1) A special general meeting of the Society may at any time be called by the council.

(2) Notice of every such meeting shall be given as provided by by-law 15.

(3) Upon receiving a requisition in writing signed by twelve or more members or upon a resolution of the council the secretary shall convene a special general meeting of the Society to be held not less than fifteen and not more than thirty days from the receipt by him of the requisition or resolution.

(4) For the purposes of this by-law the requisition or resolution and the notice thereunder convening the meeting shall distinctly specify the subjects to be considered at the meeting and those subjects only shall be discussed at that meeting.

Notice of
meeting.

15. The secretary shall give fifteen days' notice in writing to every member of a general meeting of the society stating the business of the meeting.

Place of
meeting.

16. Each general meeting of the Society shall be held in such place as the council shall appoint.

Quorum.

17.—(1) To constitute a general meeting of the Society there must be at least twenty members present in person, and no business shall be transacted thereat unless that number be present.

(2) If within half an hour after the time appointed for a general meeting twelve members are not present in person, the meeting shall be adjourned to a day and hour to be fixed by a majority of the members present, and if within half an hour after the hour so fixed twenty members are not present then the meeting shall lapse.

Adjourn-
ment.

18.—(1) Every general meeting of the Society may adjourn to a future day.

(2) Whenever a general meeting is in consequence of the non-attendance of a sufficient number of members adjourned to a future day, notice thereof shall be given as provided by by-law 15.

Chair.

19.—(1) At all general meetings of the Society the president, or in his absence the vice-president, shall take the chair.

(2) In the absence of the president and vice-president one of the members of the Society shall be chosen by the members then present to take the chair.

Decisiona.

20. Except where otherwise provided by these by-laws all questions shall be decided by a majority of the members present personally or by proxy, and in all cases, including the case of a contested election, the chairman shall have a casting vote only.

Voting.

21.—(1) At all meetings of the Society votes may be given—

(a) in person; or

(b) by proxy sent to a member in writing in the form in the schedule,

and votes and acts done by proxy shall be as valid and effectual as if made, done, or given by the member in person, but no member may at any meeting act by proxy for more than five persons.

(2) A proxy shall continue in force for the particular meeting for which it was given and for every adjournment thereof.

(3) A proxy shall be delivered to the chairman of the meeting at which it is intended to be used and shall be by him announced to the meeting.

(4) Notwithstanding any other provision of this by-law no member may vote by proxy on a motion for expulsion of a member or any question directly affecting any member personally.

22. In all cases of dispute, doubt, or difficulty respecting or arising out of matters of procedure or order the decision of the chairman shall be final. Disputes, &c.

23. Minutes of the proceedings of every general meeting of the Society shall be kept by the secretary in a book to be provided for that purpose and after confirmation signed by the chairman at the next succeeding annual general meeting. Minutes.

24. Where an irregularity occurs in the convening or holding of a general meeting of the Society or in an election or other proceedings taking place at such a meeting and the irregularity is not publicly noticed and objected to at the meeting all proceedings of the meeting shall be of the same force and validity as if no such irregularity had occurred; but if an irregularity is publicly noticed and objected to, the meeting shall decide thereon, which decision shall be final. Irregularities.

PART IV — ADMINISTRATION.

25. Without prejudice to the generality of section ten of the Act, the council— The council.

- (a) shall consider and deal with all matters affecting directly or indirectly the interests of the profession, and if it think fit bring them under the notice of the members at any general or special meeting;
- (b) may procure or rent rooms or buildings for the use of the members as a hall, library, club or otherwise;
- (c) may from time to time lay out such portion of the funds of the Society as it may deem expedient in the purchase of law and other books and publications, including newspapers, for the Society's libraries or in publishing decisions of any court in Tasmania; and
- (d) generally may perform such acts as may be requisite to carry out the objects of the Society.

26.—(1) The president, vice-president, and treasurer shall be elected by the council from within its own members at its first meeting after the annual general meeting in each year and shall continue in office until the election of their successors. Elected officers.

(2) A retiring president shall not be eligible for re-election if he has held office continuously for the three years immediately preceding.

27.—(1) The council—

- (a) shall appoint a secretary, who may be a member; and
- (b) may appoint such other officers, clerks, attendants, and servants,

Secretary,
&c.

and at such salaries as it may deem necessary and at pleasure, subject to any law, award, determination or contract, may remove them and may allot their respective duties.

(2) The secretary shall—

- (a) attend all meetings of the council and all general meetings of members;
- (b) keep all necessary books and documents;
- (c) carry out all instructions from the Society or the council; and
- (d) generally perform all duties imposed upon him by virtue of these by-laws.

28.—(1) All members of the council shall be elected at the annual general meeting of the Society and the first sixteen members shall be those elected at the first general meeting of the Society. Councilors.

(2) At the annual general meeting in 1963 eight members, to be chosen by lot as the council may direct at least thirty clear days before that meeting, of whom half have their principal place of practice in the Northern Division and half in the Southern, shall retire.

(3) At the annual general meeting in 1964 the remainder of the original members shall retire.

(4) At the annual general meetings in the year 1965 and in subsequent years the four members whose principal place of practice is in either Division who have been longest in office without re-election shall retire.

(5) All retiring members may be re-elected.

Resignation
of councillors.

29. A member of the council desirous of vacating his office may send in his resignation in writing to the secretary, and on the acceptance of his resignation by the council his office becomes vacant.

Election of
councillors.

30.—(1) At any time not being more than thirty clear days nor less than three clear days before the day fixed for the next annual general meeting any two members may give to the secretary a notice in writing signed by them nominating any member as a member of the council and supplying the name and address and the written consent of the candidate.

(2) At the annual general meeting the chairman shall state the names of the candidates duly nominated, and if not more than the requisite number be nominated the persons so nominated shall be deemed and declared to be elected.

(3) If more than the requisite number of candidates be nominated, any of the candidates in excess of the number to be elected may withdraw or may be withdrawn by the nominators with the consent of the meeting, but if all the candidates in excess of the number to be elected are not so withdrawn the election shall be conducted by ballot as provided in by-law 31.

(4) If an election by ballot be necessary, the chairman shall forthwith appoint two scrutineers from among the members other than the candidates and their nominators to receive and examine the ballot papers and to certify the result of the election.

Ballot.

31. If an election by ballot is necessary the procedure shall be as follows:—

- (a) The secretary shall in time for such meeting prepare a ballot paper for every member, which ballot papers shall be in such form as the council shall direct and shall contain the following particulars:—
 - (i) The names in alphabetical order of the candidates nominated;
 - (ii) The number and nature of the office or offices to be filled; and
 - (iii) A notice that the names of the candidates for whom the member does not intend to vote be struck out and that if the ballot paper be returned incomplete or with more or less names left uncanceled than there are persons to be elected it will be void;
- (b) The names of the candidate or candidates for whom the member does not intend to vote shall be struck out and if the ballot paper be returned incomplete or with more or less names left uncanceled than there are persons to be elected that ballot paper is invalid;
- (c) The ballot papers folded up shall be delivered to the scrutineers by whom alone they shall be opened and examined;
- (d) If the scrutineers do not agree as to the validity of any vote or ballot paper it shall be submitted to the chairman whose decision shall be final;
- (e) As soon as the ballot papers have been examined and the result of the election ascertained the ballot papers shall be destroyed by the scrutineers;

- (f) The report of the scrutineers shall be signed by them and shall contain the following particulars:—
- (i) The total number of ballot papers received;
 - (ii) The number if any rejected;
 - (iii) The total number of votes in favour of each candidate; and
 - (iv) The names of those who are duly elected; and
- (g) From the report the names of the persons elected shall be announced to the meeting by the chairman and unless a scrutineer thereupon object, the announcement shall be conclusive as to the fact of election notwithstanding any irregularity or informality in the report.

32.—(1) The council shall meet at such times and at such places Council meetings.
as the council shall decide.

(2) The president, vice-president, or any two other members of the council may by writing request the secretary to convene a special meeting of the council, which meeting shall be forthwith called by the secretary by his giving notice in writing thereof specifying the subject then to be considered.

(3) If the secretary refuses or neglects to call a meeting in accordance with the request, the president, vice-president, or two other members may thereupon call the council together on their own motion.

33. Minutes of the proceedings of every meeting of the council shall be taken by the secretary or, in case of his absence, by some other person appointed by the chairman, which minutes shall afterwards be copied fairly into the minute book to be kept for that purpose, and after confirmation signed by the chairman of the next succeeding meeting. Council minutes.

34. A list of the council showing how many times each member has attended at meetings of the council and committees during the past year shall be prepared by the secretary and be open for inspection by the members. Attendance to be known.

35.—(1) At meetings of the council the president, or in his absence the vice-president, or in the absence of both a member of the council chosen by the other members present shall be the chairman. Chair.

(2) The chairman of every meeting of the council shall have a deliberative vote only and in the event of an equality of votes the motion shall be deemed negatived.

36.—(1) The place of a member of the council shall be vacated if the occupant— Vacancies.

- (a) ceases to be a member of the Society;
- (b) becomes bankrupt;
- (c) becomes lunatic or of unsound mind;
- (d) sends his resignation in writing to the secretary; or
- (e) absents himself from three consecutive meetings of the council without leave of absence,

or if his office be declared vacant by resolution under these by-laws.

(2) Where a casual vacancy occurs in the council, the council shall elect a member to it, but need not do so within the month before an annual general meeting of the Society.

(3) A member elected under this by-law by the council shall hold office until the next ensuing annual general meeting and—

- (a) if the member whose place he has taken would then have retired, shall then retire; or
- (b) if the member whose place he has taken would have held office for another year, shall be replaced by a member elected at that meeting to hold office for that year.

(4) Where—

- (a) the member of the council vacating his place is also the president, vice-president, or treasurer; or
- (b) the president, vice-president, or treasurer resigns without resigning from the council,

the council may elect one of its members to fill the vacancy till the next meeting of the council after the next annual general meeting.

Removal
of officers.

37.—(1) The Society may at any general meeting by a majority of two-thirds of the members present remove any officer of the Society before the expiration of his period of office and may by resolution appoint another person in his stead.

(2) The person so appointed shall hold office during such time only as the officer in whose place he is appointed would have held the same if he had not been removed.

Seal.

38.—(1) The common seal of the Society shall be kept as directed by the council.

(2) The common seal of the Society shall be affixed to documents only—

- (a) pursuant to a resolution of the council; and
- (b) in the presence of two members of the council and the secretary.

Travelling
expenses.

39. The council may authorize payment of travelling and accommodation expenses incurred by its members in attending meetings.

PART V—FINANCE.

Subscrip-
tions.

40.—(1) The following subscriptions shall be paid to the treasurer in respect of every year ending on the thirtieth day of June, and before the last day of July therein:—

- (a) by members and associate members, such amount as the council shall fix in either case for that year; and
- (b) as library subscription, such sum as is fixed under paragraph (b) of clause (2) of by-law 47 by the regional committee of the region in which the member or associate member paying it lives.

(2) Levies for the purposes of paragraph (1) of by-law 3 shall be of such amount as the council shall fix and shall be paid to the treasurer within six months of demand.

(3) In fixing under this by-law subscriptions and levies payable by members, the council may fix different subscriptions and levies for classes of members in different circumstances.

Duties of
treasurer.

41.—(1) The treasurer shall—

- (a) collect and receive all moneys due to the Society;
- (b) pay out of the Society's funds all accounts contracted by it;
- (c) keep correct accounts of all receipts and payments;
- (d) produce at the annual general meeting the accounts required by these by-laws; and
- (e) generally carry out the instructions of the Society and the council and perform all the duties imposed upon him by these by-laws.

(2) All subscriptions and other moneys payable to the Society shall be paid to the treasurer who shall with all convenient speed place them in a bank to be named by the council to the credit of the Society.

(3) All cheques drawn on the Society's bank account shall be signed by the treasurer as such and counter-signed by the secretary, or signed and counter-signed by such persons as the council may direct.

Accounts.

42. The council shall cause proper accounts to be kept of the income and expenditure of the Society and of the property, assets, and liabilities of the Society.

43.—(1) There shall be two auditors.

Auditors.

(2) The outgoing auditors shall be deemed to continue in office till the close of the annual general meeting next after their election, or if from any cause their successors are not elected at that meeting then until the election of their successors.

(3) An outgoing auditor is eligible for re-election.

(4) The mode of election of auditors and of taking a ballot, if necessary, shall be the same as in the case of the election of members of the council.

44. The account of the income and expenditure of the Society for the year ending on the 30th day of June immediately preceding shall in each year be delivered with the account of the property, assets, and liabilities of the Society to the auditors to be examined, audited, and signed by them if found correct.

Audit of accounts.

45. The accounts so signed shall be open for inspection by members at the secretary's office, and shall be submitted to the annual general meeting next after the close of the year to which they relate for approval, and after approval shall be signed by the chairman in testimony of such approval and having been so signed shall be binding and conclusive on all the members and shall not for any reason be afterwards opened unless some manifest error to the amount of five pounds or upwards is discovered therein and specified in writing to the secretary within one month after their approval; in which case the account shall be opened so far only as may be necessary to rectify that error.

Approval of accounts.

PART VI—REGIONAL COMMITTEES AND LIBRARIES.

46.—(1) At the first council meeting to be held immediately following the annual general meeting in each year the council shall appoint regional committees to be known as—

Regional committees.

- (a) the Southern Regional Committee;
- (b) the Northern Regional Committee; and
- (c) the North-Western Regional Committee,

respectively.

(2) Each regional committee shall be appointed upon the recommendation of members of the council residing within their respective regions.

(3) Each regional committee shall have the conduct of local and domestic affairs within its region and shall when required so to do by the council make a report to the council on its activities.

47.—(1) The existing libraries in the Southern, Northern and North-Western areas shall be controlled by the respective regional committees.

Libraries.

(2) Each regional committee shall make rules—

- (a) as to the conduct and management of the libraries within their respective regions; and
- (b) fixing from time to time annual subscriptions in respect thereof.

(3) No demand for the upkeep or management of those libraries shall be made upon the general funds of the council.

(4) Library subscriptions shall be paid over in full to the regional committees of the regions in which the persons paying them live.

PART VII—MISCONDUCT.

48. Any complaint made to the council respecting any practitioner or any judge, magistrate, court officer, or other person shall be verified by statutory declaration and accompanied by all documents having reference to the subject matter of the complaint.

Complaints.

49. If the conduct of any member of the council or any auditor or the circumstances in which any such member or auditor shall happen to be placed is at any time such that his continuance in office appears to be prejudicial to the interest of the Society and a resolution to

Misconduct of councillor or auditor.

that effect is carried at any meeting of the council specially convened for the purpose of taking the conduct or position of that member or auditor into consideration, the council shall as soon as conveniently may be thereafter call a special general meeting of the members to consider and determine upon the propriety of removing that member or auditor from his office, and he may be removed if that general meeting shall so determine.

Offences.

50. A member who—

(a) disobeys the ruling of the chairman of a general meeting of the Society; or

(b) is guilty of a breach of these by-laws not especially provided for,

shall pay a fine not exceeding forty shillings to be imposed by the chairman or the council, as the case requires.

Mitigation of penalties.

51. The council may remit or reduce any fine or penalty imposed under by-law 50.

PART VIII—MISCELLANEOUS.

Notice before amendment, &c., of by-laws.

52. Notices of any motion for the repeal or alteration of any by-law or the enactment of any new by-law, whether originating with the council or otherwise, shall be sent to each member at least fifteen days before the day of the meeting.

THE SCHEDULE.

(By-law 21.)

Form of proxy.

I, A.B. of &c., appoint C.D. of &c., to vote and act on my behalf at the meeting of the Law Society of Tasmania to be held on the day of 19 , and every adjournment thereof.

A.B.

LEGAL ASSISTANCE.

No. 28 of 1962.

AN ACT to make provision with respect to the granting of legal assistance to persons of limited means and matters incidental thereto.

[1 October 1962.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title and commencement.

1—(1) This Act may be cited as the *Legal Assistance Act 1962*.

(2) This Act shall commence on the same day as the *Law Society Act 1962*.