

Legal Profession (Society) Rules 2007

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VERSION 5 NOTE

This version of the *Legal Profession (Society) Rules 2007* incorporates amendments made by:

- 1 the Council of the Society, at its meeting of 15 November 2007, as set out in the *Legal Profession (Society) Amendment Rule (No. 1) 2007* and notified in the *Queensland Government Gazette* of 29 February 2008 at page 1012;
- 2 the Council of the Society, under s693(6) of the *Legal Profession Act 2007* on 21 April 2008, as set out in the *Legal Profession (Society) Amendment Rule (No. 1) 2008* and notified in the *Queensland Government Gazette* of 23 May 2008 at page 543;
- 3 the Council of the Society, under s693(6) of the *Legal Profession Act 2007* on 13 May 2008, as set out in the *Legal Profession (Society) Amendment Rule (No. 2) 2008* and notified in the *Queensland Government Gazette* of 4 July 2008 at page 1421;
- 4 the Council of the Society, at its meeting on 2 April 2009, as set out in the *Legal Profession (Society) Amendment Rule (No. 1) 2009* and notified in the *Queensland Government Gazette* of 1 May 2009 at page 108; and
- 5 the Council of the Society, at its meeting on 2 April 2009, as set out in the *Legal Profession (Society) Amendment Rule (No. 2) 2009* and notified in the *Queensland Government Gazette* of 1 May 2009 at page 108,

to the *Legal Profession (Society) Rules 2007*, as originally adopted by the Council of the Society at its meeting on 21 June 2007.

Legal Profession (Society) Rules 2007

section 696, Legal Profession Act 2007

PART 1 – PRELIMINARY

1 Short title

These Rules may be cited as the '*Legal Profession (Society) Rules 2007*'.

2 Commencement

These Rules commence immediately after rule 5 of the *Society Rule of the Queensland Law Society 2005* is repealed or expires.

3 Definitions

The dictionary in the schedule defines particular words used in these Rules.

4 Words and expressions have the same meaning as in the Act

Words and expressions used in the Act have the same respective meaning in these Rules.

PART 2 – OBJECTS

5 Objects of the Society

The objects of the Society are:

- (a) to represent the professional interests of members both generally and individually in their relations with the community and in the processes by which the law is made and administered;
- (b) to advance the interest of the solicitors' branch of the legal profession;
- (c) to strengthen the community's understanding and confidence both in the legal profession and in the process by which the law is made and administered;
- (d) to foster the rule of law and to promote improvements and developments in the law;
- (e) to preserve and maintain the integrity, status and independence of the legal profession;
- (f) to act as a public voice for the expression of members' opinions;
- (g) to promote, and ensure compliance with, high standards of professional and ethical conduct, professional practice and client service among legal practitioners and to provide advice in relation to such matters;
- (h) to provide and co-ordinate programs relating to continuing legal education and specialist accreditation for legal practitioners;
- (i) to investigate and provide guidance in relation of matters of ethics, professional conduct and disciplinary breaches;
- (j) to provide a useful and cost effective range of services, facilities and benefits to members;
- (k) to afford means of reference for the amicable settlement or adjudication of professional disputes or differences;
- (l) to promote and encourage the use by members of efficient methods of accounting and office management in relation to their practices;

- (m) to form and maintain a library and provide appropriate library services for its members;
- (n) to facilitate the accessibility of legal services to all sections of the community, including the provision of legal aid;
- (o) to consider and determine, subject to the Act, matters which, in the opinion of the council, affect the interests of the profession generally;
- (p) to purchase, take on lease or in exchange, hire and otherwise acquire any real and personal property and any rights or privileges which the council may think necessary or convenient for the purposes of the objects set out in these Rules, or in the exercise of powers given to the Society by any Act, and in particular any land, buildings, easements, machinery and plant;
- (q) to construct, improve, maintain, repair, develop, work, manage, carry out, or control any buildings and other works and conveniences which may seem calculated directly or indirectly to advance the Society's interests; and to contribute to, subsidise or otherwise assist or take part in the construction, improvement, maintenance, repair, development, working, management, carrying out, or control thereof; and, if thought fit by council, to enter into such arrangements as may be appropriate with respect to the use and/or occupation of any part of such buildings or other works or conveniences by the lessee, licensee or other party;
- (r) to invest and deal with the money of the Society not immediately required in such a manner as from time to time may be thought fit;
- (s) for the purposes of the objects of the Society, to lend and advance money or give credit to any person or corporation; to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or corporation; to secure or undertake in any way by the repayment of monies lent or advanced to or the liabilities incurred by any person or corporation, and otherwise to assist any person or corporation;
- (t) to borrow or raise or secure the payment of money in such manner as the council may think fit and to secure the same or repayment or performance of any debt liability contract guarantee or other engagement incurred or to be entered in to by the Society in any way and to redeem or pay off any such securities;
- (u) for the purposes of the objects of the Society, to draw, make, accept, endorse, discount, execute, and issue promissory notes, bills of exchange, bills of lading, and other negotiable instruments;
- (v) to provide services to members and their employees and to promote and procure the welfare of members and their employees both directly and indirectly.

PART 3 – MEMBERSHIP OF THE SOCIETY

Division 1 – Categories of membership

6 Categories of membership

The categories of membership are:

- (a) full members;
- (b) associate members;
- (c) honorary members;
- (d) complimentary members.

7 Full membership

A person who:

- (a) is a solicitor; or
- (b) is an Australian-registered foreign lawyer; or
- (c) has other qualifications or experience that the council determines are appropriate;

may apply for full membership of the Society.

Examples of persons the council determines have qualifications or experience that are appropriate include – Australian lawyers with a long-standing professional relationship with the Society.

8 Associate membership

(1) A person who:

- (a) is an Australian lawyer and is not an Australian legal practitioner; or
- (b) is a barrister; or
- (c) is currently undertaking any course of training or work experience designed to qualify a person for admission as an Australian lawyer; or
- (d) has other qualifications or experience that the council determines are appropriate;

may apply for associate membership of the Society.

Examples of persons undertaking a course of training or work experience designed to qualify a person for admission as an Australian lawyer –

Law students, a person undertaking an approved practical legal training course or period of supervised workplace experience and articled clerks.

Examples of persons with other qualifications or experience that the council determines are appropriate –
Law lecturers and teachers, law practice employees and law librarians.

(2) Despite anything in these Rules to the contrary, an associate member:

- (a) has the right to receive notice of, and to attend, general meetings; and
- (b) has any other rights, including rights to use services offered by the Society, which the council determines by resolution from time to time; but
- (c) has no right to vote at a general meeting; and
- (d) is not entitled to nominate any candidate for election to council, to receive any voting papers, or cast any vote; and
- (e) is not eligible to hold office as president, deputy president, vice-president or an ordinary member of the council.

9 Honorary membership

(1) If, in the council's opinion, a person has made a significant contribution to the Society or to the legal profession, the council may by resolution admit the person as an honorary member of the Society.

Example of a person who, in the council's opinion, has made a significant contribution to the Society or to the legal profession –

A former president of the Society.

(2) Despite anything in these Rules to the contrary, an honorary member:

- (a) is not obliged to pay any subscriptions or levies; and
- (b) is entitled to receive notice of, and attend, but not to speak or vote at, any general meetings of the Society; but
- (c) is not entitled to nominate any candidate for election to council, to receive any voting papers, or cast any vote; and
- (d) is not eligible to hold office as president, deputy president, vice-president or an ordinary member of the council.

10 Complimentary membership

- (1) The council may offer complimentary membership to those members who have engaged in legal practice for 50 years.
- (2) The entitlements of a complimentary member are the same as those of an honorary member, as set out in subrule 9(2).

Division 2 – Procedures relating to membership

11 Form of application

- (1) An application for membership must be in the form approved by the council for this purpose and accompanied by documents or evidence required by the council as to qualification for the category of membership applied for.
- (2) An application form must be accompanied by the application fee determined under rule 15.

12 Admission to membership

- (1) A person may apply to the secretary for membership of the Society.
- (2) The secretary, upon receipt of an application, must consider it as soon as practicable and may, subject to this rule, admit the applicant to membership.
- (3) The secretary may refer an application for membership to the council for consideration and determination.
- (4) The council may:
 - (a) approve an application for membership referred to it; or
 - (b) refuse an application by any person whom the council considers unfit or unqualified to be a member and, upon the council so resolving, the secretary must notify the applicant accordingly and return the application and any monies which accompanied it to the applicant.
- (5) An applicant whose application is refused may obtain a statement of the reasons for the refusal.
- (6) If an application for membership is accepted, the secretary must:
 - (a) notify the applicant of his or her admission to membership; and
 - (b) enter the details set out in subrule 14(2) in the roll of members.
- (7) The rights and privileges of a member are personal to the member and are not transferable.

13 Notification by members

- (1) Each member must promptly give the secretary written notice of any change in the member's qualification to be a member.
- (2) Any member who retires from legal practice must notify the secretary in writing within one month of so doing.

14 Roll of members

- (1) The secretary must keep a roll of members.
- (2) The secretary must enter on the roll of members the following information about each member:
 - (a) the member's full name;
 - (b) the member's principal business address, telephone number, facsimile number, and email address (if any);
 - (c) any firm or corporate name under which the member carries on practice;

- (d) the category of membership;
 - (e) the date on which the member became a legal practitioner (if applicable);
 - (f) the date of admission and cessation (if applicable) of membership;
 - (g) the date of the last payment of the member's subscription; and
 - (h) any other information required by the council.
- (3) Each member must give the secretary written notice of any change in the details in the roll about the member within one month after the change.
 - (4) The secretary may amend the roll to correct any error or misdescription of which the council or the secretary becomes aware.

Division 3 – Application fees, subscriptions and levies

15 Application fee

The application fee payable by each applicant for membership is, subject to subrule 16(2), the sum which is set by these Rules from time to time as the annual subscription for the category of membership applied for.

16 Annual subscription

- (1) Subject to subrule (2) of this rule, the rates of annual subscription payable by members for the financial year commencing 1 July 2008 are as follows:
 - (a) full members – \$360 (plus GST);
 - (b) subject to (c), associate members – \$185 (plus GST);
 - (c) associate members who are students undertaking a course of training or work for admission as an Australian lawyer – nil.
- (1A) Subject to subrule (2) of this rule, the rates of annual subscription payable by members for the financial year commencing 1 July 2009 are as follows:
 - (a) full members – \$370 (plus GST);
 - (b) subject to (c), associate members – \$185 (plus GST);
 - (c) associate members who are students undertaking a course of training or work for admission as an Australian lawyer – nil.
- (2) However, a person applying for membership at a particular time during a financial year must pay as the application fee an amount equal to the following percentage of the subscription for the whole of the year, depending on when the application is made:
 - (a) if the application is made on or between 1 July and 30 September – 100 per cent;
 - (b) if the application is made on or between 1 October and 31 December – 75 per cent;
 - (c) if the application is made on or between 1 January and 31 March – 50 per cent;
 - (d) if the application is made on or between 1 April and 30 June – 25 per cent.
- (3) Existing members must pay the annual membership subscription no later than 31 May before the start of the financial year for which membership is sought.
- (4) The council may by resolution waive all or part of any annual subscription payable by any member.

17 Levies

Members who hold a principal practising certificate other than a limited principal practising certificate must pay, for the financial year commencing on 1 July 2009, a corporate marketing levy of \$115 (plus GST).

18 Unpaid subscriptions and levies

- (1) If a member fails to pay the annual subscription in accordance with rule 16 or fails to pay a levy imposed under rule 17 by the date fixed by council, the secretary may give the member a notice of default.
- (2) If the subscription or levy remains unpaid by a member for a period of one month after the date on which it was due, or a longer period allowed by the council, the council may suspend that member from membership until the monies owing are paid, at which time the member may be reinstated on the roll of members.
- (3) During a period of suspension imposed under subrule (2), a suspended member ceases to have any rights or privileges of membership.
- (4) If any member fails to pay the annual subscription by the due date in accordance with subrule 16(4) or fails to pay any levy after it becomes due, the Society, notwithstanding that the council has suspended the member pursuant to subrule (2), may sue for, and recover, any unpaid subscription or levy by action as for a civil debt owed to the Society.
- (5) All application fees, subscriptions and levies are payable at the office of the Society in Brisbane, or at other places which the council may from time to time designate by notice in writing to all persons by whom such amounts are payable. Upon receipt by the Society of application fees, subscriptions and levies, all such monies become the property of the Society.

Division 4 – Cessation of membership

19 Resignation

- (1) A member may resign from membership by giving written notice to the secretary.
- (2) A member's resignation takes effect from the date the secretary receives the notice of resignation, or at any later date stated in the notice.

20 Cessation and restoration of membership

- (1) Subject to subrule (2), a member ceases to be a member if he or she:
 - (a) resigns under rule 19;
 - (b) is expelled under rule 21 or rule 22;
 - (c) is suspended under subrule 18(2), rule 21 or rule 22;
 - (d) becomes an insolvent under administration;
 - (e) is of impaired capacity (as defined in the *Powers of Attorney Act 1998*) for membership of the Society;
 - (f) becomes ineligible to apply for the category of membership he or she holds;

Example of how a member may become ineligible –
A member who is an Australian-registered foreign lawyer may allow his or her registration to lapse.
 - (g) becomes untraceable because he or she has ceased to reside at, attend or otherwise communicate his or her registered address; or
 - (h) dies.
- (2) The council may, if it thinks fit, decide that a member does not cease to be a member on the grounds set out in subrules (1)(c), (d) or (e).
- (3) If a member ceases to be a member under this rule, the council may reinstate the member on the application of the member and restore the member's name to the roll of members on the terms it thinks fit.

21 Suspension of membership and expulsion from the Society

- (1) If a member:
 - (a) wilfully refuses or neglects to comply with the provisions of these Rules; or
 - (b) is guilty of any conduct which, in the council's opinion, is inappropriate for a member or prejudicial to the interests of the Society,

the council may by resolution suspend the member for a period of no longer than 12 months, or expel the member from the Society and, in the case of expulsion, remove his or her name from the roll of members.
- (2) At least one week before the council meeting at which a motion for a resolution of the nature referred to in subrule (1) (*'disciplinary motion'*) is to be considered, the council must give the member notice of:
 - (a) the meeting;
 - (b) what is alleged against the member;
 - (c) the disciplinary motion to be put at the meeting; and
 - (d) the member's right to give to the council a written explanation or defence under subrule (3).
- (3) At the council meeting and before council votes on the disciplinary motion, the member must have the opportunity to give council a written explanation or defence.
- (4) If, at the meeting of the council, the disciplinary motion is passed by a majority of 75 per cent of those present, the member concerned is to be punished accordingly.
- (5) The council's determination of the question is binding and any penalty imposed will take effect 28 days after the decision is notified to the member.

22 Suspension and expulsion resulting from disciplinary action

If, as a result of disciplinary action taken under the Act:

- (a) a member's practising certificate is suspended for a stated period, his or her membership of the Society is also suspended for the same period;
- (b) a member's practising certificate is cancelled, his or her membership of the Society is suspended for an indefinite period;
- (c) a member's name is ordered to be removed from the roll of legal practitioners, the member is expelled from the Society.

23 Termination of membership by loss of qualification

A member may continue to be a member only for the period he or she continues to hold the necessary qualification for membership.

24 Effect of cessation of membership

- (1) If a member ceases to be a member under these Rules, the member remains liable to the Society for any money which he or she owes to the Society on any account when his or her membership ceases.
- (2) A person who ceases to be a member forfeits all rights and privileges which members enjoy and has no right or claim on the Society or the Society's property arising from the member's past membership.

25 Readmission

Any practitioner whose name has been removed from the roll of members under rule 21 or rule 22 may apply to the council to be readmitted as a member, and any such application may be granted by the council with or without special conditions.

26 Delegation of council's powers

The secretary may exercise any of the council's powers in regard to membership of the Society, except the power to suspend or expel a member under rule 21.

PART 3A – EXTENDED TERMS FOR MEMBERS OF COUNCIL

26A Extension of council members' terms

- (1) The following members of council may continue to hold office until 31 December 2008:
 - (a) The president and the deputy president who were elected to those positions in 2007.
 - (b) The immediate past president who assumed that position in 2007.
- (2) Members of the council who were elected or appointed in 2007 and who are not mentioned in sub-rule (1) may continue to hold office until 31 December 2009.
- (3) The following applies to this part –
 - (a) sub-rule (1) of this rule expires on 1 January 2009;
 - (b) the remaining provisions expire on 1 January 2010.

PART 4 – ELECTION OF MEMBERS OF THE COUNCIL

27 Returning officer

The secretary is the returning officer for the election of the members of the council.

28 Roll of electors

- (1) For every election, the secretary must prepare a roll of electors consisting of the names, alphabetically arranged, of all the full members of the Society as at the date of publication of the notice of election referred to in rule 30.
- (2) Such roll of electors must be certified by the secretary by writing under his or her hand to be correct and, when so certified, is the roll of electors to be used at such election, and shall, subject to these Rules, be conclusive evidence of the right of all such persons to vote.

29 Election of president, deputy president, vice-president and other members of council

- (1) The election of members of the council will be conducted in respect of the following sections –
 - (a) election of president;
 - (b) election of deputy president;
 - (c) election of vice-president; and
 - (d) election of eight other members (*'the ordinary members'*).
- (2) Subject to subrule 32(2), a person may be a candidate in one or more than one or all of those sections.
- (3) A person is not eligible for nomination as a candidate for election to any position if, at the date of the nomination or election (as the case may be), the person:
 - (a) is of impaired capacity (as defined in the *Powers of Attorney Act 1998*) for membership of the council;
 - (b) is not a member of the Society;
 - (c) is an insolvent under administration;
 - (d) has been convicted of a serious offence (as defined in schedule 2 to the Act);

- (e) in the period of five years immediately preceding such date was convicted of two offences under the *Trust Accounts Act 1973* or any regulation made under that Act; or
- (f) in the period of five years immediately preceding such date was found to have committed an act of unsatisfactory professional misconduct or professional misconduct by a final decision of the Solicitors Complaints Tribunal, the Legal Practice Tribunal or the Legal Practice Committee;

and a resolution of the council may declare him or her to be so ineligible.

30 Notice of election

- (1) On or before 1 October in every alternate year commencing with 2009, or on or before such other date as may be appointed by the council, the returning officer must give notice to members of the intention to hold an election of members of council whose terms are to commence on 1 January in the following year and must forward a nomination paper to each member.
- (2) Such notice must specify a day not less than 14 nor more than 28 days after the giving of such notice as the day for the nomination of candidates which will be the last day for the receipt of nominations of candidates.
- (3) The notice must also specify the address of the office of the returning officer at which the returning officer will be attendance between the hours of 9:00am and 4:00pm on the day specified in the notice given under this rule as the day for nomination of candidates.

31 Nomination of candidates

- (1) A nomination of a candidate for election must be:
 - (a) in writing;
 - (b) signed by the candidate;
 - (c) signed by a proposer and seconded by five practitioners, all of whom must be full members of the Society.
- (2) The nomination must be in accordance with the form approved by council and must contain the following information:
 - (a) the section, as referred to in subrule 29(1), for which the candidate is nominating;
 - (b) the candidate's name;
 - (c) the practice name under which, and the address at which, the candidate is engaged in practice and, if the candidate is in an employed position, a statement to that effect together with the name of the candidate's employer;
 - (d) the full names of the proposer and the five practitioners supporting the nomination;
 - (e) the addresses at which the proposer and the five practitioners supporting the nomination may be contacted;
 - (f) the year in which the candidate was first admitted as a legal practitioner.
- (3) The nomination of a candidate may include a statement (the '**candidate's statement**') of no more than 150 words outlining:
 - (a) the candidate's service to the legal profession or service to the community (or both);
 - (b) the area of law in which the candidate practises; and
 - (c) any special interests which the candidate has, whether inside or outside the legal profession.

- (4) A nomination of a candidate, or a facsimile of it in a reasonably legible form, must be received by the secretary at the address specified in the notice referred to in rule 30 before 4:00pm on the day specified as the day for nomination of candidates.
- (5) If the returning officer is unable by reason of illness or other sufficient cause to be present at his office during the appointed hours on the day specified in the notice referred to in rule 30, a nomination paper is deemed to have been received by the returning officer if that paper is received by the deputy secretary or such other person appointed for that purpose in writing under the hand of the president, deputy president or vice-president, before the expiration of the time for receipt of nomination papers, as provided for in that notice.

32 Multiple candidatures on the part of one member

- (1) Where a person is a candidate for election in more than one of the sections specified in subrule 29(1), the election for the various sections must be determined, under rule 33 or rule 38, in the order in which the sections are listed in subrule 29(1) so that the election of president is determined before the elections for all the other sections, the election of the deputy president is determined before the election of the vice-president and the ordinary members, and the election of the vice-president is determined before the election of the ordinary members.
- (2) Where a person is declared duly elected in any section, then that person is deemed to have withdrawn his or her nomination as a candidate in any other section in which he or she was previously nominated.

33 Where exact number to be elected nominated

- (1) If at the expiration of the time for the nomination of candidates, there is only one person nominated as president, the returning officer must declare such person duly elected president accordingly.
- (2) If there is only one person nominated as deputy president, the returning officer must declare such person duly elected deputy president accordingly.
- (3) If there is only one person nominated as vice-president, the returning officer must declare such person duly elected vice-president accordingly.
- (4) If the number of persons who are duly nominated as ordinary members does not exceed the number of members required to be so elected, the returning officer must declare such persons duly elected ordinary members accordingly.
- (5) If, at the conclusion of an election under this part, there is a vacancy in the office of president, deputy president, vice-president or ordinary member of the council, by reason of lack of nominations or by death of a candidate for election or by reason of any candidate becoming ineligible for election, the vacancy is to be filled as prescribed by part 5 of these Rules.

34 Closing of poll

- (1) If at the expiration of the time for the nomination of candidates:
 - (a) there are two or more persons nominated for the office of president;
 - (b) there are two or more persons nominated for the office of deputy president;
 - (c) there are two or more persons nominated for the office of vice-president; or
 - (d) the number of candidates for the office of ordinary member exceeds the number of ordinary members to be elected,

the returning officer must appoint a day (not being less than 14 nor more than 28 days from the day of nomination) on which the poll must close as provided under these Rules and the results of the election ascertained.

- (2) Every poll must close at 4:00pm on the day so appointed.

35 Voting papers

- (1) If a poll is required to be taken, the returning officer must immediately, after the day of nomination, send by post a voting paper to every person entitled to vote at the election.
- (2) Every voting paper must contain the names of all the candidates for election, listed in the order as drawn by lot by the returning officer and arranged respectively in the following sections as required:
 - (a) president;
 - (b) deputy president;
 - (c) vice-president;
 - (d) ordinary members.
- (3) Every voting paper must be initialled by the returning officer, which may be effected by autographical or mechanical means, and must be in the form prescribed by the council or to like effect.
- (4) The form approved under subrule (3) must consist of the following parts:
 - (a) in a portion of the paper which can be sealed separately from the part referred to in paragraph (b), the lists of candidates for each of the sections referred to in rule 29 for which an election is to be conducted;
 - (b) a detachable part designed for the signature of the member voting.
- (5) The returning officer must also forward with each voting paper a copy of the candidate's statement submitted by each candidate.
- (6) The returning officer must compile or cause to be compiled and must certify in writing under his or her hand an alphabetical list of all persons to whom he or she has sent a voting paper.
- (7) Every voting paper sent to a voter must be accompanied by an unsealed envelope addressed to the returning officer and endorsed 'Queensland Law Society Voting Paper'.

36 Method of voting

- (1) A member must vote by:
 - (a) in the elections for the president, the deputy president and the vice-president, writing on a ballot paper a tick, a cross or the number 1 in the square opposite the name of a candidate in each section to indicate the elector's preference for the candidate;
 - (b) in the election for ordinary members, writing a tick, a cross, or the number 1 in a square opposite the name of a candidate and then writing a tick, a cross or the numbers 2, 3 and so on in other squares up to the number required to be elected, to indicate the member's preferences for those candidates.
- (2) After completing the voting paper, the elector must sign it on the detachable part of that paper and place it in the envelope mentioned in subrule 35(7).
- (3) The elector must then seal the envelope and send it to the returning officer.

37 Marking the names of voters on the list

- (1) Before proceeding to examine the preferences on a voting paper, the returning officer must remove the detachable part of the voting paper which has been signed by the elector in such a way that it is not possible to identify the way in which that voter expressed his or her preferences in the election.
- (2) The returning officer must then make a checkmark against the name of the respective voter upon the alphabetical list of voters.

38 Scrutiny of votes and declaration

- (1) Each candidate may appoint one member to be his or her scrutineer at the place appointed for the examination of voting papers.
- (2) The returning officer must, at 4:00pm on the day appointed for closing the poll at his or her office, in the presence of such candidates and scrutineers as may attend:
 - (a) proceed to examine and count the number of the votes received by each candidate in each section, subject to rule 39;
 - (b) make out a written statement signed by the returning officer and countersigned by any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes cast for each candidate as counted;
 - (c) declare the names of the candidates elected to each section, as provided for in subrule (3), and forthwith certify to the Minister, in writing, the names of the candidates so elected and the date of the declaration of the result of the election.
- (3) Subject to these Rules:
 - (a) the candidate in any of the first, second or third sections mentioned in subrule 29(1) who secures the greatest number of votes in the section is the candidate elected for that section;
 - (b) in the fourth section mentioned in rule 29(1), the eight candidates securing the highest number of votes are the candidates elected for that section.
- (4) At the time of counting such votes the returning officer must produce, for the information of the scrutineers (if any), a signed alphabetical list of all persons to whom he or she has posted voting papers.

39 Formal and informal votes

- (1) Subject to this rule, for a voting paper to have effect to indicate a vote for the purposes of these Rules and be counted as a formal vote:
 - (a) the voting paper must contain writing that is in accordance with rule 36 or other writing or marks that indicate the voter's intended preference or preferences;
 - (b) the voting paper must not contain any writing or mark (other than as authorised by these Rules) by which the elector can be identified;
 - (c) the completed voting paper must have been sent to the returning officer as required by these Rules.
- (2) Every voting paper which:
 - (a) does not bear the initials of the returning officer;
 - (b) is not signed by the voter on the detachable part of the voting paper;
 - (c) contains, in respect of any section for which an election is being held, greater or fewer squares marked with a tick, cross or number opposite the names of candidates to be elected in the section in question; or

- (d) is so imperfectly executed that the intention of the voter cannot be ascertained by the returning officer,

must be declared an informal vote by the returning officer and excluded from the count but, in relation to a defect referred to in paragraphs (c) or (d) of this subrule, the voting paper is to be declared informal only in respect of the section or sections affected by the defect.

40 Equality of votes

If the number of votes for two or more candidates in the same section is equal, the returning officer must decide by lot which candidate is to be elected.

41 Disposal of voting papers

- (1) The returning officer must immediately after declaring the result of the election:
- (a) enclose in one packet all voting papers, together with the signed alphabetical list of voters;
 - (b) securely fasten and seal the packet;
 - (c) endorse upon the packet when so sealed a concise description of its contents and the date of the closing of the poll;
 - (d) sign the endorsement.
- (2) The returning officer must ensure that the sealed packet referred to in subrule (1) is delivered to the president, who must keep it for one year from the date of receipt. At the expiration of that period, the president must arrange for the packet to be destroyed.
- (3) If at any time a question arises concerning the votes alleged to have been cast at the election, the voting papers contained in the sealed packet referred to in subrules (1) and (2) may be received in evidence as proof of such votes in any court of law.

42 Publication of the names of successful candidates

The names of the persons elected as president, deputy president, vice-president, and ordinary members of the council must be published within one month from the date of the declaration of the poll in the *Gazette* and in any journal or newsletter published by the Society.

PART 5 – VACANCIES IN COUNCIL

43 Vacancies

In the event of a vacancy –

- (a) in the office of president, the deputy president, or, if there is no deputy president, the vice-president, becomes president, but if there is a vacancy in the office of deputy president and in the office of vice-president, a council member appointed by the council becomes president;
- (b) In the office of deputy president (other than a vacancy occasioned by the operation of section 686 of the Act), the vice-president, or if there is no vice-president, a council member appointed by the council becomes deputy president.
- (c) In the office of vice-president, a council member appointed by the council becomes vice-president;
- (d) In the office of a council member (other than the president, deputy president, vice-president or the appointed member), a member of the Society –
 - (i) must, if the case so requires, be appointed or elected; and
 - (ii) may, if the case so permits, be appointed, in accordance with the provisions of this part, to be a member of the council.

44 Notification of vacancy

- (1) Where a vacancy in the office of a council member (other than president, deputy president, vice-president or the appointed member) occurs before the expiration of a period of 18 months after the date on which the elected council members then in office (other than the president, deputy president and vice-president) were declared elected at an election held under the provisions of part 4, the secretary must, on or before the date appointed by the council, give notice of the vacancy to all full members of the Society.
- (2) The notice given under subrule (1) may contain such information in addition to the notification of the vacancy as the council thinks fit.

45 Requisition of an election for vacancy

If, before the expiration of the period 28 days after the date appointed by the council under rule 44, applications in writing have been received by the secretary from members aggregating not fewer than ten per cent in number of the members on the roll of full members immediately before the expiration of that period requisitioning the holding of an election to fill the vacancy in respect of which notice has been given under rule 44, an election of a member to fill the vacant office must be held and the person so elected holds the office for the residue of the term of office of the ordinary members of the council current at the time of his or her election.

46 Election for a casual vacancy

- (1) The provisions of part 4 apply (with all necessary adaptations and with such modifications as the council may deem expedient) to an election required to be held by rule 45.
- (2) In so far as the provisions referred to in subrule (1) do not extend, the council may give such directions, not inconsistent with these Rules, as it deems expedient for the purpose of facilitating and enabling the holding of an election required by rule 45 and such directions have effect as if they were provisions of the rules referred to in subrule (1).

47 When council to fill a casual vacancy

Where in respect of the filling of a vacancy to which rule 44 refers:

- (a) an election is not required to be held under rule 45, or
- (b) an election required to be held under rule 45 is not held because no person was nominated as a candidate for the election to fill the vacancy,

the council must appoint a member of the Society to be a member of the council in place of the member whose office is vacant, and the person so appointed holds office for the residue of the term of office of members of the council current at the time of his or her appointment.

48 Filling of other casual vacancies

- (1) Where a vacancy in the office of a member of council (other than president, deputy president, vice-president or appointed member) occurs after the expiration of the period specified in subrule 44(1), that office must, unless a further vacancy in the office of ordinary member occurs after the expiration of that period, remain vacant until the expiration of the term of office of the members of the then subsisting council.

- (2) Where more than one vacancy in the office of a member of council (other than president, deputy president, vice-president or appointed member) occurs after the expiration of the period referred to in subrule 44(1), the council may appoint a member or members of the Society to one or more of the vacant offices as the council deems proper in the circumstances but, where the number of vacancies is such that the number of members of the council in office is fewer than the number prescribed under the Act to constitute a quorum of the council, the remaining members of the council must appoint such number of members of the Society to be members of the council as is necessary to enable a quorum of council to be constituted.
- (3) A person appointed to be a member of the council under subrule (2) holds office for the residue of the term of office of members of the council current at the time of his or her appointment.
- (4) For the purposes of this part, a reference to a vacancy of the office of a member of council (other than president, deputy president, vice-president or appointed member) includes a vacancy occurring by reason of any increase in the maximum number of members of the council under subsection 685(2) of the Act.

PART 6 – THE COUNCIL

Division 1 – Council meetings

49 Meetings of council

- (1) The council may, subject to section 690 of the Act, meet together for the despatch of business and adjourn and otherwise regulate its meetings as it thinks fit.
- (2) The minutes of every meeting of the council must state the method of meeting and the persons present.
- (3) If the minutes of a meeting do not state that it is a teleconference meeting, as referred to in rule 51, it is presumed to be a meeting where all members are present without the use of technology as allowed by subsection 693(4) of the Act.

50 Notice of a council meeting

- (1) The secretary must give a notice of every council meeting to each council member, except that it is not necessary to give a notice to a council member who:
 - (a) has been given special leave of absence; or
 - (b) is absent from Australia and has not left an alternative address or telephone or facsimile number or electronic address at which the council member may be given notice.
- (2) A notice of a meeting of the council may be given in writing or orally, and by facsimile, telephone or any other electronic means.

51 Teleconference meeting of council members

- (1) For the purposes of these Rules, the contemporaneous linking together in oral communication by telephone, audio visual or other instantaneous means (***‘teleconference meeting’***) of a number of council members not less than a quorum may constitute a meeting of council, as provided for in subsection 693(4) of the Act.
- (2) All the provisions of these Rules relating to a meeting of the council apply to teleconference meetings in so far as they are not inconsistent with the provisions of this rule.
- (3) In addition, the following provisions apply in respect of teleconference meetings:
 - (a) all council members entitled to receive notice of a meeting of the council are entitled to notice of a teleconference meeting;

- (b) all council members participating in the meeting must be linked by telephone, audiovisual or other instantaneous means for the purpose of the meeting;
 - (c) notice of the meeting may be given by telephone or by other electronic means;
 - (d) each council member taking part in the meeting must be able to hear and be heard by each of the other council members taking part at the commencement of the meeting and, in accordance with subsection 693(5) of the Act, is deemed to be present at that meeting;
 - (e) at the commencement of the meeting, each council member must announce his or her presence to all other council members taking part in the meeting; and
 - (f) each such council member is deemed able to hear and be heard by each other council member taking part in the meeting and continuing to be a participant in the meeting, unless the council member has obtained the express consent of the chairperson to leave the meeting or, in the event of accidental disconnection, advises the chairperson accordingly.
- (4) If the secretary is not present at a teleconference meeting, one of the council members present must take the minutes.
 - (5) A council member must not leave a teleconference meeting by disconnecting his or her telephone, audiovisual or other communication equipment unless the council member has previously notified the chairperson of the meeting.
 - (6) A council member is conclusively presumed to have been present and formed part of a quorum at all times during the teleconference meeting unless the council member has previously obtained the express consent of the chairperson to leave the meeting.
 - (7) A minute of the proceedings of a teleconference meeting is sufficient evidence of the proceedings and of the observance of all necessary formalities if the minute is certified to be a correct minute by the chairperson of the meeting.

52 Validation of acts of council members

All acts done at a meeting of the council or of a committee of the council or by a person acting as a council member or delegate are, although it is afterwards ascertained that there was some defect in the appointment or continuance in the office of any of the persons concerned, or that any of them were disqualified or were not entitled to vote, as valid as if each of them had been duly appointed, had duly continued in office, was qualified to be a council member or delegate and was entitled to vote.

Division 2 – Decisions made outside council meetings

53 Motions circulated for resolution ('flying minutes')

- (1) For the purposes of subsection 693(6) of the Act, the secretary may give notice to all council members at that time present in Australia, and any council members absent from Australia who have informed the secretary of a contact facsimile number or electronic address, of a motion for a resolution for consideration and determination by council members.
- (2) A reference in subrule (1) to all the council members does not include a reference to a council member who, at a meeting of the council members, would not be entitled to vote on the resolution.
- (3) Every resolution passed under subrule (1) must be entered in the minutes of the council's meetings as soon as is practicable.
- (4) A facsimile or other similar means of communication addressed to and received by the Society and purporting to be signed by a council member for the purpose of these Rules is deemed to be a written document signed by the council member.

- (5) Also, for the purposes of subrule (1), a statement sent electronically by a council member to an agreed electronic address that he or she is in agreement with the resolution is to be taken to be a document containing that statement and duly signed by the council member and the document is to be taken to have been signed by the council member at the time of its receipt at the agreed electronic address.

Division 3 – Cessation of office as member of council

54 Resignation from office

A member of the council who intends to resign from office may send his or her resignation in writing under his or her hand to the president, and on acceptance of the resignation by the council (but not before), his or her office will become vacant.

55 Vacation of office

The office of a council member is vacated if he or she:

- (a) dies;
- (b) becomes of impaired capacity (as defined in the *Powers of Attorney Act 1998*) for membership of the council;
- (c) ceases to be a member of the Society;
- (d) becomes an insolvent under administration;
- (e) is convicted of a 'serious offence' as defined in schedule 2 to the Act;
- (f) fails, without leave from the council, to attend the meetings of council for three consecutive meetings; or,
- (g) is found by the Legal Practice Tribunal or the Legal Practice Committee to have committed an act of unsatisfactory professional conduct or of professional misconduct and a resolution of the council declaring him or her disqualified as aforesaid shall be conclusive as to the facts and grounds of disqualification stated in the resolution.

56 Suspension of council members

- (1) The council may by resolution suspend any council member from service in his or her office of member during such period as the council may deem expedient on the grounds of:
 - (a) the member's unsatisfactory professional conduct as defined in schedule 2 to the Act;
 - (b) the member's professional misconduct as defined in schedule 2 to the Act; or
 - (c) the member having engaged in conduct which in the opinion of the council is likely to bring the council, the Society or the legal profession into disrepute.
- (2) The council may only suspend a member subject to the following requirements:
 - (a) the council must give reasonable notice of the meeting of the council at which it is proposed that the member's suspension will be moved and must give to the member a statement in writing of the matters which it proposes to take into account in considering the motion for suspension, and must afford him or her the opportunity of giving an explanation in writing or in person at the meeting, as he or she may elect, provided that such member is not entitled to vote on the motion;
 - (b) at least seven council members must be present at the meeting at which the suspension is resolved upon and at the time when such resolution is passed, and such resolution shall be carried by a majority of at least two-thirds of the members of the council present and who voted.

57 General meeting following suspension

- (1) Whenever the council suspends any of its members from service in his or her office, it must immediately convene a special general meeting of the members of the Society, to be held within 28 days after a member is suspended, which meeting will have full power to remove from the office the member so suspended if it considers that course expedient.
- (2) The council must give the suspended council member reasonable notice of the special meeting, and the suspended member is be entitled to be present and to be heard on the matter.

Division 4 – Committees

57A Appointment of committees

- (1) The council may appoint committees for such purposes it thinks fit, and may prescribe the quorum of any such committees.
- (2) In the event of a vacancy in a committee so appointed, the council may appoint another person to be a member of the committee to fill the vacancy.
- (3) In the event of the temporary absence of any member so appointed, the council may appoint another person to be a member of the committee during the member's absence.
- (4) The council may, in its absolute discretion, by resolution terminate the membership by any person of any committee.

PART 7 – GENERAL MEETINGS

Division 1 – Annual general meetings

58 Convening annual general meetings

A general meeting to be called the annual general meeting must be held at such time and place as the council may from time to time by resolution determine, provided that not more than 15 months elapses between the holding of any two consecutive annual general meetings.

59 Notice of annual general meetings

- (1) The secretary must give notice of an annual general meeting in a journal, newsletter or email published by the Society to all members, and failing such publication, in the *Gazette*, at least 30 days before the day appointed for the holding of the meeting.
- (2) A notice of an annual general meeting must specify the place, date and time proposed for the meeting and the particulars of the business to be considered at the meeting.

60 Business of annual general meetings

- (1) The business of an annual general meeting is:
 - (a) confirmation of the minutes of the preceding annual general meeting and of the minutes of all intermediate special general meetings;
 - (b) the reception of the annual report and financial statement of the council;
 - (c) the consideration of any motion, notice of which has been given in accordance with the requirements of subrule (2);
- (d) the transaction any other business which under these Rules may be transacted at the annual general meeting.

- (2) Notice in writing of any motion proposed to be moved at an annual general meeting, as referred to in subrule (1)(c), must be given to the secretary at least 21 days before the day of the meeting and the secretary must give a copy of any such notice of motion to every member at least seven days before the meeting.

Division 2 – Special general meetings

61 Convening special general meetings

- (1) A special general meeting may be called:
 - (a) by council at any time of its own motion; or
 - (b) by 15 or more full members who may at any time by writing under their hands require the council to call a special general meeting to consider any matter which may be dealt with by the Society under the Act or the rules made under the Act.
- (2) Every requisition to the council to call a special general meeting, as referred to in subrule (1)(b), must be given to the secretary and must state concisely the purpose of such a meeting, and the council must, not later than 14 days from the date of receipt of such requisition, call a meeting pursuant to these Rules on a date no later than 60 days from the receipt by the secretary of such requisition.
- (3) If the council does not call such a special meeting within the time prescribed in subrule (2), any ten members who signed the requisition may give the secretary a notice in writing specifying a date and time for holding such a meeting, not being earlier than 21 days from the receipt by the secretary of such notice, and the secretary must call such a meeting accordingly.
- (4) Notice of every special general meeting, specifying the general nature of the business and the requisition (if any) on which it is called, must be given to each member by the secretary at least 14 days before the day for holding such meeting.
- (5) No business shall be transacted at a special general meeting other than business of which such notice has been given.

Division 3 – Matters pertaining to all general meetings

62 Accidental omission to give notice and waiver of notice

- (1) The accidental omission to give notice of a general meeting to, or the non-receipt of the notice by, any person entitled to receive a notice of a general meeting under these rules does not invalidate the proceedings or any resolution passed at the meeting.
- (2) A person's attendance at a general meeting waives any objection that person may otherwise have on account of a failure to have been given notice, or having received a defective notice, of the meeting.

63 Postponing or cancelling general meetings and change of venue

- (1) The council may, whenever it thinks fit, postpone holding a general meeting for not more than 35 days after the date for which it was originally called and may cancel, or change the venue for, a general meeting if the council considers the meeting has become unnecessary, or the venue would be unreasonable or impracticable or a change is necessary in the interests of conducting the meeting efficiently.
- (2) When a meeting is postponed, the same period of notice of the meeting must be given to persons entitled to receive notice of the meeting as if a new meeting were being called for the date to which the original meeting is postponed.
- (3) When a meeting is cancelled or the venue for it is changed, notice of the cancellation or change of venue must be given to persons entitled to receive notice of the meeting before the date of the meeting which is cancelled or the venue for which is changed.

64 Meaning of 'member' for the purposes of general meetings

For the purpose of ascertaining:

- (a) a quorum at a general meeting required by these Rules; or
- (b) the persons entitled to vote at a general meeting,

'**member**' means any full member whose subscription is not in arrears and who is present in person or by proxy.

65 Quorum

- (1) No business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- (2) Fifteen members present in person constitute a quorum for a general meeting.

66 Absence of a quorum

If a quorum is not present within 30 minutes after the appointed time for a general meeting:

- (a) where the meeting was convened on requisition of members, the meeting is dissolved; or
- (b) in any other case:
 - (i) the meeting stands adjourned to the day, time and place which the council determines or, if the council makes no determination, to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time for the meeting, then such meeting will lapse.

67 Chairperson

- (1) The president, if present and able, must preside as chairperson at every general meeting.
- (2) If the president is not present within 15 minutes after the time appointed for holding the meeting, or if the president is unable to preside, the deputy president, or in his or her absence, the vice-president, if present and able, must preside as chairperson of the meeting.
- (3) If the deputy president or the vice-president is not present or is unable to preside, the members present must elect one of the other council members to be chairperson and the council member who is elected must preside as chairperson.
- (4) If no council member is able to preside, the members must elect any one of their number to be chairperson.

68 Conduct of general meetings

- (1) The chairperson of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (2) The chairperson may at any time the chairperson considers it necessary or desirable for the proper and orderly conduct of the meeting:
 - (a) impose a limit on the time that a person may speak on a motion or other item of business, and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the members present;
 - (b) adopt any procedures for casting or recording votes at the meeting whether on a show of hands or on a poll, including the appointment of scrutineers.
- (3) The chairperson may delegate the powers conferred in this rule to any person he or she thinks fit.

69 Adjournment of meetings

- (1) The chairperson may, with the consent of a general meeting at which a quorum is present, and must, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- (2) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- (3) Except as provided for in subrule (2), it is not necessary to give any notice of an adjournment or of the business to be transacted at the adjourned meeting.

Division 5 – Voting at general meetings

70 Voting rights

At all general meetings, the right to vote may be exercised in person or by proxy.

71 Appointment of proxies

- (1) A member may appoint one proxy who is another member for a particular general meeting by executing the form approved by the council for this purpose or a form to like effect.
- (2) Every appointment of a proxy continues in force for the particular meeting for which it has been given and for every adjournment of that meeting, but for no longer.
- (3) An instrument appointing a proxy must be delivered to the secretary not less than 48 hours before the time set down for the holding of the meeting in respect of which the proxy has been appointed.
- (4) The instrument may, in addition to any other method, be sent to the secretary by facsimile or email.
- (5) Immediately after taking the chair at the meeting, the chairperson must announce the proxies to the meeting.
- (6) For the purposes of subrules (1) and (4), an instrument appointing a proxy received at an electronic address specified in the notice of general meeting for the receipt of proxy appointments is taken to be signed if the appointment:
 - (a) includes or is accompanied by the personal identification code allocated by the Society to the member making the appointment;
 - (b) is electronically signed; orhas been authorised by the member in another manner approved by the council and specified in or with the notice of meeting.

72 Manner of voting by proxies

An instrument appointing a proxy may specify the manner in which the proxy is to vote on a particular resolution and, where an instrument of proxy so provides, the proxy must not vote on the resolution except as specified in the instrument.

73 Determination of questions

A question at a general meeting is decided by a majority of the votes.

74 Casting vote

- (1) If there is an equality of votes on any question, the chairperson of the meeting has a casting vote, in addition to his or her deliberative vote.
- (2) The chairperson has discretion both as to the use of the casting vote and as to the way in which it is used.

75 Objections to exercise of voting right

- (1) An objection to the qualification of a voter may be raised only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (2) The objection must be referred to the chairperson of the meeting, who must determine the question.

PART 8 – ACCOUNTS AND AUDIT

76 Accounts

The council must cause proper accounts to be kept in accordance with its obligations under the *Financial Administration and Audit Act 1977*.

77 Availability of annual financial statements and auditor-general's report

After the auditor-general has provided the report about the certified financial statements under section 46G of the *Financial Administration and Audit Act 1977*, the certified statements and the auditor-general's report must be made available to members.

Example –

By placing copies of the certified statements and report on the Society's website.

PART 9 – COMMON SEAL

78 Seal

- (1) The Society must have a seal.
- (2) The council must provide for the safe custody of the seal.
- (3) The seal must not be fixed to any document except by the authority of a resolution of the council or a committee of the council duly authorised by the council.
- (4) Every instrument to which the seal is affixed must be signed by at least one council member and countersigned by another council member, the secretary or another person appointed by the council to countersign that document or a class of documents in which that document is included.

79 Affixing of seal by interested council member

A council member may sign or countersign as council member any document to which the seal is affixed, even though the document relates to a contract, arrangement, dealing or other transaction in which the council member is interested. The council member's signature is effective as to compliance with requirements of these Rules about affixing the seal despite the council member's interest.

PART 10 – MISCELLANEOUS

Division 1 – Minutes

80 Minutes to be kept

The council must ensure that:

- (a) minutes of all proceedings of general meetings and of meetings of the council and each of its committees which is established under a legislative provision or exercises, by delegation, a power of the council pursuant to section 683 of the Act, to be entered, as soon as practicable after the relevant meeting is held, in books kept for that purpose; and
- (b) those minutes must be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of a subsequent meeting at which they are approved.

Division 2 – Service of notices

81 Service of notices

- (1) In addition to the methods of service set out in section 39 of the *Acts Interpretation Act* 1954, the Society may give a notice to a member or a council member by commercial document exchange.
- (2) Regardless of whether the method of service is prescribed by the *Acts Interpretation Act* 1954 or this rule, the address or number to which a notice may be sent to:
 - (a) a member includes the member's address or facsimile number shown on the roll of members, or such other address or facsimile number supplied by the member to the Society for giving notices; and
 - (b) a council member includes the council member's usual residential or business address, the principal office facsimile number for the council member's practice or residence, or any other address or facsimile number he or she has supplied to the Society for giving notices.
- (3) Any notice given in accordance with section 39 of the *Acts Interpretation Act* 1954 or this rule is deemed fully received.

82 Time of service

- (1) A notice from the Society properly addressed and sent by commercial document exchange is taken to be served at 10:00am on the following business day.
- (2) A certificate signed by the secretary or deputy secretary to the effect that a notice was duly served under these Rules is evidence of that fact.
- (3) Where the Society serves a notice by facsimile, the notice is taken to have been served at the time the facsimile is sent, if the correct facsimile number appears on the facsimile transmission report produced by the sender's facsimile machine which evidences that the transmission was successful.

83 Written notices

Any reference in these Rules to a written notice includes a notice given by facsimile or other electronic means.

PART 11 – TRANSITIONAL PROVISIONS

84 Definitions for part 11

In this part –

authorised action or document means an action done or a document made or kept under a previous provision.

corresponding provision means a provision of these Rules that is substantially the same as a previous provision.

made includes given and issued.

obligation includes duty.

previous, in relation to a stated provision that includes a number, means the provision of the *Society Rule of the Queensland Law Society 2005* with that number immediately before the repeal of the *Legal Profession Act 2004*.

previous provision means a provision of the *Society Rule of the Queensland Law Society 2005* as in force immediately before the commencement of this rule.

protection includes a statement that –

- (a) there is no liability; and
- (b) there is no invalidity; and
- (c) a person has an entitlement.

85 Authorised actions and documents etc under previous provision

- (1) This rule applies to the following –
 - (a) an authorised action or document done, made or kept under a previous provision if the authorised action or document continued to have effect or was in force immediately before the commencement;
 - (b) an entity's obligation under a previous provision if the obligation applied to the entity immediately before the commencement;
 - (c) a protection under a previous provision that applied to an entity immediately before the commencement.
- (2) Subject to a specific provision of these Rules in relation to an authorised action or document, obligation or protection under a previous provision, if there is a corresponding provision for the previous provision, the authorised action or document, obligation or protection –
 - (a) continues in force or to have effect according to its terms; but
 - (b) is taken to have been done, made, kept or applied under the corresponding provision.
- (3) However subrule (2)(b) applies whether or not the previous provision refers to the action or document, obligation or protection by reference to a provision of the *Society Rule of the Queensland Law Society 2005*.
- (4) The following are examples of authorised actions or documents in relation to matters dealt with under the *Society Rule of the Queensland Law Society 2005* –
 - (a) an application for or admission to membership of the Society under part 3;
 - (b) the cessation, suspension or restoration of membership of the Society under part 3, division 4;

- (c) a notice of election, the nomination of a candidate, the election of council members, and the cessation of membership of the council under part 4;
- (d) a resolution of the council under part 6;
- (e) a resolution of a general meeting under part 7;
- (f) the affixing of the seal under part 9;
- (g) minutes kept under part 10, division 1;
- (h) the service of a notice under part 10, division 2.

Note –

The examples are examples under the *Acts Interpretation Act 1954*, section 14D.

86 Things continued in force under Society Rule of the Queensland Law Society 2005

- (1) This rule applies to a thing (***the thing***) that happened under a Rule other than the *Society Rule of the Queensland Law Society 2005* but that continued to have effect under that Rule.
- (2) If the thing has not ended before the commencement of this rule, the thing continues to have effect under these Rules.
- (3) Matters in relation to the thing are to be done under these Rules unless a provision of the *Society Rule of the Queensland Law Society 2005* provides otherwise and for the purpose of these Rules the provision continues to have effect.
- (4) This rule does not limit rule 85 or another provision of this part about the thing.

87 Terminology in things mentioned in rule 85(1)

- (1) This rule applies to a document that is –
 - (a) any of the things mentioned in rule 85(1), including, for example, an authorised action or document; or
 - (b) evidence of any of the things.
- (2) A reference in the document to the thing is to be read, if the context permits and with the necessary changes to terminology, as if the thing were done, made or kept under these Rules.

88 Period stated in previous provision

- (1) This rule applies if, in a previous provision, there is a period for doing something, and the period for doing the thing started before the commencement of these Rules.
- (2) If there is a corresponding provision to the previous provision and both the corresponding provision and the previous provision state the same period, the period for the thing continues to have started from when the period started under the previous provision.

89 Period or date stated in document given under previous provision

- (1) This rule applies if –
 - (a) there was a previous provision that provided for a document to be made under it; and
 - (b) there is a corresponding provision to the previous provision; and
 - (c) under the previous provision and before the commencement –
 - (i) a document was given to a person, whether or not the person had received the document before the commencement; or
 - (ii) a document was published before the commencement.

- (2) If the document stated a period for doing something –
 - (a) the stated period continues to apply for doing the thing; and
 - (b) the period continues to have started from when the period started under the previous provision.
- (3) If the document stated a date before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated date.

90 Acts Interpretation Act 1954, section 20 not limited

This part does not limit the *Acts Interpretation Act 1954*, section 20.

SCHEDULE DICTIONARY

Act means the *Legal Profession Act 2007*.

appointed member means the Australian legal practitioner appointed by the Minister under subsection 685(2)(a) of the Act.

gazette means the *Queensland Government Gazette*.

member means a member of the Society and, except where otherwise stated, includes an associate member, an honorary member and a complimentary member.

premises means any building or office or other place in which the Society conducts its business.

regulation means a regulation made under the Act.

seal means the common seal of the Society and includes any official seal of the Society.

secretary means the person appointed to perform the duties of the secretary of the Society under section 689 of the Act.

Society means the Queensland Law Society Incorporated as referred to in section 679 of the Act.

these Rules means the *Legal Profession (Society) Rules 2007*.

ENDNOTES

History

- 1 The *Legal Profession (Society) Rules 2007* were originally made by the council of the Society at its meeting on 21 June 2007.
- 2 It was amended by the *Legal Profession (Society) Amendment Rule (No. 1) 2007*, which was approved by the council of the Society at its meeting on 15 November 2007 and notified in the *Queensland Government Gazette* of 29 February 2008 at page 1012.
- 3 It was amended by the *Legal Profession (Society) Amendment Rule (No. 1) 2008*, which was approved by the council of the Society under s693(6) of the *Legal Profession Act 2007* on 21 April 2008 and notified in the *Queensland Government Gazette* of 23 May 2008 at page 543.
- 4 It was amended by the *Legal Profession (Society) Amendment Rule (No. 2) 2008*, which was approved by the council of the Society under s693(6) of the *Legal Profession Act 2007* on 13 May 2008 and notified in the *Queensland Government Gazette* of 4 July 2008 at page 1421.
- 5 It was amended by the *Legal Profession (Society) Amendment Rule (No. 1) 2009*, which was approved by the council of the Society at its meeting on 2 April 2009 and notified in the *Queensland Government Gazette* of 1 May 2009 at page 108.
- 6 It was amended by the *Legal Profession (Society) Amendment Rule (No. 2) 2009*, which was approved by the council of the Society at its meeting on 2 April 2009 and notified in the *Queensland Government Gazette* of 1 May 2009 at page 108.

List of Annotations

Full membership

Rule 7(a) – amended by *Legal Profession (Society) Amendment Rule (No. 1) 2007*.

Associate membership

Rule 8(1) – amended by *Legal Profession (Society) Amendment Rule (No. 1) 2007*.

Annual subscription

Rule 16(1) and (1A) – amended by the *Legal Profession (Society) Amendment Rule (No. 2) 2009*.

Rule 16(1A) – inserted by the *Legal Profession (Society) Amendment Rule (No. 1) 2008*.

Levies

Rule 17 – amended by the *Legal Profession (Society) Amendment Rule (No. 1) 2008*.

Rule 17 – amended by the *Legal Profession (Society) Amendment Rule (No. 2) 2009*.

Extension of council members' terms

Part 3A comprising rule 26A – inserted by the *Legal Profession (Society) Amendment Rule (No. 2) 2008*.

Notice of election

Rule 30(1) – amended by the *Legal Profession (Society) Amendment Rule (No. 2) 2008*.

Appointment of committees

Part 6 Division 4 comprising rule 57A – inserted by the *Legal Profession (Society) Amendment Rule (No. 1) 2009*.