

LAW COUNCIL OF AUSTRALIA
BY-LAWS OF THE SECTION ON FAMILY LAW

Amended

1. **NAME**

1.1 The name of this Section shall be the Family Law Section ("Section") of the Law Council of Australia ("Law Council").

2. **LIMITATION**

2.1 These By-laws are adopted subject to the Constitution of the Law Council.

3. **INTERPRETATION**

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

3.1 "Chairman", "Deputy Chairman", "Treasurer", and "Secretary" severally mean the person for the time being holding the appropriate office in accordance with these By-laws.

3.2 "Law Council Executive" means the Executive for the time being of the Law Council.

3.3 "Section Executive" means the Section Executive for the time being of the Section established pursuant to these By-laws.

3.4 "Member" and "member of the Section" means a person whose name has been entered upon the Register of Members and whose name has not been deleted therefrom.

3.5 "present" when used of a member in relation to a meeting means present in person or by proxy.

3.6 "register" means the Register of Members of the Section maintained under these By-laws.

3.7 "registered address" of a member means the address of a member stated in the register, or, if he or she has given notice in writing to the Section of a changed address, the last address of which he or she has given such notice which, for the purpose of these By-laws, may be or include an email or other electronic address supplied by a member.

3.8 "these By-laws" include all amendments of and additions to amendments of and additions to these By-laws from time to time in force.

3.9 Words importing the singular include the plural and vice versa.

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3.10 Words importing the masculine gender shall include the feminine gender.

4. OBJECTS

The objects of this Section shall be to further the interests and objectives of family law and family lawyers in Australia, to conduct programmes of interest and value to lawyers, to implement and conduct programmes for the benefit of the community at large, to further the objects of the Law Council on matters within the jurisdiction of the Section and in furtherance thereof to promote professional discussion, consultation and study of such matters and to make recommendations thereon where appropriate to the Law Council Executive, the Family Law Council, Institute of Family Studies and such other groups or individuals as is deemed appropriate by the Section Executive.

5. MEMBERSHIP

5.1 All legal practitioners shall be eligible for membership of the Section.

5.2 Membership of the Section shall also be open to such other categories of persons, if any, as determined by the Section Executive.

5.3 Any eligible person may lodge with the Secretary an application for membership of the Section in the form prescribed by the Section Executive together with the appropriate member fee.

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5.4 If it appears to the Secretary that an applicant is 23/11/88 eligible for membership of the Section and that the appropriate fee has been paid, the Secretary shall:

- enter the name of the applicant in the Register together with such other details as are required to be entered in the Register, and
- notify the applicant accordingly.

5.5 A member shall cease to be a member of the Section if he:

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- (a) ceases to be eligible for membership; or
- (b) resigns his membership by notice in writing left or sent by post to the Secretary; or
- (c) fails to pay the prescribed fee.

5.6 Upon the termination of membership of any member, the name of such person shall be removed from the Register.

5.7 The Section shall keep a register of members which shall contain the full name of each member, the last registered address of which he or she has given notice in writing to the Secretary, the date of his or her admission to membership, his or her qualifications for membership and

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if applicable the date of the cessation of his or her membership. In any dispute or proceeding involving the Section and any of its members, the Register shall be prima facie evidence of the matters contained thereon.

- 5.8 Fees for membership in this Section shall be amounts set by the Section Executive and shall be payable upon enrolment and thereafter annually in advance each year at the beginning of the Law Council's financial year.

6. SECTION EXECUTIVE

- 6.1 There shall be a Section Executive of the Section which shall conduct and supervise the activities, programmes and affairs of the Section.

- 6.2 Only a person who is a member of the Section shall be eligible to serve as a member of the Section Executive.

- 6.3 The Section Executive shall consist of:

- 6.3.1 Until the 30th day of June 1986, the following persons:

Colin Davies (Chairman)

John Barlow

Rodney Burr

Bruce Crawford

Christopher Crowley

Stuart Fowler

Joseph Kay

Graeme Page

Philip Theobald

Philip Twigg

Michael Watt

John Wilczek.

- 6.3.2 As from the 1st day of July 1986:

- (a) the immediate past Chairman of the Section Executive;
(b) the Editor for the time being of the Australian Family Lawyer;
(c) ten members elected in the manner hereinafter provided being:

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- (i) one barrister and one solicitor from each of the States of New South Wales, Queensland and Victoria;

- (ii) one practitioner from each of the Australian Capital Territory and the States of South Australia, Tasmania and Western Australia.

- 6.4 The members of the Section Executive whose election is declared at an Annual General Meeting shall take office at the conclusion of that

meeting, and their term of office shall expire at the conclusion of the second Annual General Meeting after their election.

- 6.5 A vacancy on the Section Executive shall arise:
- (a) on the death or resignation of a member of the Section Executive;
 - (b) on any member of the Section Executive being absent from three consecutive meetings of the Section Executive without special leave of absence having been granted by the Section Executive to the absent member;
 - (c) on a member of the Section Executive ceasing to be a member of the Section; or
 - (d) on a determination by a majority of the Section Executive that a member of the Section Executive should cease to be a member of the Section Executive because of incapacity likely to continue for a period in excess of 6 months;

in which case the vacancy shall be filled by an appointment made by the Chairman with the consent of a majority of the remaining members of the Section Executive, such appointee to be a resident of the State or Territory in which the replaced member resided and a member of the constituent body of which the replaced member was a member.

- 6.6 The Section may by a majority vote at a special meeting of members of the Section remove any member of the Section Executive and may by majority vote appoint another person in his stead such person being a resident of the State or Territory in which the removed member resided and a member of the constituent body of which the removed member was a member.

- 6.7 The Section Executive may appoint an alternate member or members to act in the place of any member or members of the Section Executive to whom leave of absence has been granted, such appointment to be valid for the duration of the leave of absence. Such alternative member shall be a resident in the State or Territory in which the absent member resides and a representative of the constituent body of which the absent member is a representative.

7. ELECTION OF SECTION EXECUTIVE

- 7.1 The members of the Section Executive shall be elected by ballot by the members of the Section, which ballot may be conducted at the direction of the Section Executive by electronic means.
- 7.2 The election of members of the Section Executive shall be conducted by the Secretary who shall be the Returning Officer.

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- 7.3 Not less than two months prior to the Annual General Meeting in each year in which an election of the Section Executive is to be held the Secretary shall call for nominations for election to the Executive by notice in writing to the members of the Section.
- 7.4 When calling for nominations the Secretary shall specify:
- (a) the form which the nomination shall take;
 - (b) the date by which nominations must be received by the Secretary;
 - (c) the place to which nominations shall be sent.
- 7.5 Not less than one month prior to the Annual General Meeting in each year in which an election of the Section Executive is to be held the Secretary shall send to each member of the Section notification of the means by which each member may participate in the ballot together with:
- (a) such explanatory information as is necessary to assist the members to complete the ballot;
 - (b) a brief profile of each candidate;
 - (c) notification of the date by which ballot will close;
 - (d) such other documentation as the Secretary may determine.
- 7.6 Subject to By-law 6.3.2, the election of members of the Section Executive shall be on the "first past the post" basis.
- 7.7 No election of a member of the Section Executive shall be invalidated as a result of any member of the Section not receiving either a notice calling for nominations or notification of the means by which each member may participate in the ballot.
- 7.8 The results of an election shall be declared at the Annual General Meeting.

8. OFFICERS

- 8.1 The officers of the Section shall be a Chairman, Deputy Chairman and Treasurer.
- 8.2 The Chairman, Deputy Chairman, and Treasurer shall be elected by a majority vote of the Section Executive. The election of the Chairman, Deputy Chairman and Treasurer shall take place immediately following the election of the Section Executive. The term of office shall be until the next Annual General Meeting of the Section.
- 8.3 Officers of the Section shall be members of the Section and of the Section Executive and shall be eligible to remain members during their entire term of office.
- 8.4 The Chairman shall preside at all meetings of the Section and of the Section Executive. He shall prepare a report for each annual general

meeting of the Law Council on the work of the Section for the preceding year. He shall appoint, with the advice and consent of the Section Executive, the Chairman of all Committees of the Section who are to hold office during his term as Chairman. He shall keep the Council fully informed of the programmes and activities of the Section and shall carry out the decisions of the Council. He shall be responsible for making all approved public statements of the Section in consultation with the President and Secretary-General of the Law Council. He shall perform such other duties assigned to him by the Section.

- 8.5 The Deputy Chairman shall perform such duties as may be assigned to him by the Chairman. He shall act as Chairman and perform the duties of the Chairman during any period in which the Chairman is unable or refuses to act. The Deputy Chairman shall perform such further duties and have such further powers as may be assigned to him by the Section.
- 8.6 The Treasurer shall be responsible for the preparation of the financial report for the period of his term of office for submission to the Annual General Meeting of the Section. He shall prepare a budget for the Section for submission to the Law Council Executive each financial year. He shall keep an accurate record of all monies appropriated to and extended for the use of the Section.

9. SECRETARY

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

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10. GENERAL MEETINGS

- 10.1 The Annual General Meeting of the Section shall be held once in each calendar year at a time determined by the Section Executive or, failing that, the Law Council Executive. All other general meetings shall be called special meetings. At the Annual General Meeting, reports and recommendations of the Section Executive and committees of the Section shall be delivered to the

- 10.2 members and consideration shall be given to the activities of the Section during the forthcoming year.
- 10.3 Special meetings of the Section may be called by the Section Executive or the Law Council Executive at any time. The Amended Section Executive shall convene a special meeting on a requisition signed by twenty per centum of members.
- 10.4 At least 21 days notice of a general meeting shall be given to all members of the Section (exclusive of the day on which the notice is served or deemed to be served but inclusive of the day on which the notice is given) specifying the place, the day and the hour of meeting, the general nature of the business and terms of any motion to be put to the general meeting (notice of which shall be given to the Secretary at least thirty days prior to the general meeting). However, the accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by a member shall not invalidate the proceedings of any meeting. 10.4 Notice of all meetings shall be given in accordance with the provisions of By-law 15.
- 10.5 All meetings will be open to all members of the Section.
- 10.6 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business; save as herein otherwise provided six persons present in person or by proxy shall be a quorum.
- 10.7 If within thirty minutes from the time appointed for the meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the time and place and if at the adjourned meeting a quorum is not present within thirty minutes from the time appointed for the meeting the meeting shall be dissolved.
- 10.8 The Chairman or in his absence the Deputy Chairman shall preside as Chairman at every general meeting of the Section.
- 10.9 If neither the Chairman nor the Deputy Chairman is present within thirty minutes after the time appointed for holding the meeting or if being present he is or they are unwilling to act as Chairman, those present shall choose one of their number to be Chairman.
- 10.10 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as

aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting.

10.11 At any general meeting a resolution put to the meeting shall be decided on a show of hands unless (before or on the declaration of the result of the show of hands) a poll is demanded:

- (a) by the Chairman of the meeting; or
- (b) by any member entitled to vote on the resolution and who is present at the meeting.

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

10.12 If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval adjournment or otherwise as the Chairman of the meeting directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded. No poll may be demanded on the question of a Chairman of the meeting or on a question of adjournment.

10.13 Every member present in person or by his proxy shall have one vote on a show of hands and on a poll shall have a vote for himself and each proxy.

11. PROCEEDINGS OF SECTION EXECUTIVE

11.1 The Section Executive may meet together for the despatch of business adjourn and otherwise regulate its meetings as it thinks fit. The Chairman may at any time and the Secretary shall on the requisition of any three members of the Section Executive summon a meeting of the Section Executive.

11.2 Questions arising at any meeting of the Section Executive shall be decided by a majority of votes and a determination by a majority of Executive members shall for all purposes be deemed a determination of the Section Executive. In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

- 11.3 The quorum necessary for the transaction of the business of the Section Executive shall be at least half the members of the Section Executive present in person or by proxy.
- 11.4 The Chairman shall act as Chairman of all meetings of the Section Executive and in his absence the Deputy Chairman, but if the Chairman and the Deputy Chairman are not present, the Executive members present may choose one of their number to be Chairman of the meeting.
- 11.5 A resolution in writing signed by all members for the time being of the Section Executive shall be as valid and effectual as if it had been passed at a meeting of the Section Executive duly convened and constituted. Any such resolution may consist of several documents in like form signed by one or more members.

12. COMMITTEES

- 12.1 The Section Executive may establish such Committees as it considers necessary for carrying on the activities of the Section. The Section Executive shall determine the broad areas within which each Committee may operate, and may fix a maximum number for the membership of any Committee.
- 12.2 The Section Executive shall appoint and may from time to time remove the Chairman of each Committee.
- 12.3 The Chairman of the Section Executive may in consultation with the Chairman of a Committee appoint or remove members of a Committee. A Committee may co-opt additional members for a period not exceeding one year to assist it to deal with particular matters.
- 12.4 Only members of the Section shall be eligible to be a Chairman of a Committee or appointed a member or co-opted as a member of a Committee.
- 12.5 A Committee may nevertheless permit a person who is not a member of the Section to attend meetings of a Committee as an observer on such terms as the Committee with the approval of the Chairman of the Section Executive may determine.

13. REPORTS OR RECOMMENDATIONS

Any report or recommendation of the Section Executive or other Committee of a Section shall be approved by the Law Council Executive before the same becomes effective as a report or recommendation of the Law Council.

14. FINANCE

- 14.1 The Section shall present to the Law Council Executive an annual budget at such time as requested by the Treasurer of the Law Council and in any event in time for approval by the Law Council Executive prior to the commencement of the Law Council's financial year.
- 14.2 Accounts for the Section shall be maintained operated and audited as part of Law Council accounts.
- 14.3 No bank or other account shall be opened without prior notification in writing to the Treasurer of the Law Council.
- 14.4 Any two (2) of the following persons may act as the signatories on all accounts of the Section:
 - The Chairman for the time being of the Section Executive.
 - The Treasurer for the time being of the Section Executive.
 - Such other person appointed by the Section Executive.
- 14.5 No officer or member of the Section other than the Chairman or such persons as are expressly designated by the Chairman shall have authority to incur any liability in the name of the Section.

15. SERVICE OF NOTICES

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- 15.1 Notice may be given by the Section to any person who is entitled to notice under these By-laws:
 - 15.1.1 by serving it on the person; or
 - 15.1.2 by sending it by post, facsimile transmission or electronic notification to the person at the person's registered address shown in the Register or the address supplied by the person to the Council for sending notices to the person.
- 15.2 A notice sent by post is taken to be served:
 - 15.2.1 by properly addressing, prepaying and posting a letter containing the notice; and
 - 15.2.2 on the day after the day on which it was posted.
- 15.3 A notice sent by facsimile transmission or electronic notification is taken to be served:
 - 15.3.1 by properly addressing the facsimile transmission or electronic notification and transmitting it; and
 - 15.3.2 on the day after its despatch.
- 15.4 If a Member has no Registered Address a notice will be taken to be served on that Member 24 hours after it was posted on the website of the Section.

- 15.5 A certificate in writing signed by the Secretary or other office of the Section that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.
- 15.6 Subject to *the Corporations Act 2001*, the signature to a written notice given by the Council may be written or printed.

16. AMENDMENT OF BY-LAWS

Subject to approval by the Law Council Executive, the By-laws may be amended deleted or added to by a majority of two-thirds of the members voting in person or by proxy.

17. DURATION AND LAW COUNCIL

- 17.1 Unless the Executive of the Law Council of Australia shall resolve prior to the 30th day of April in each year that this Section shall cease to operate as a Section of the Law Council this Section shall continue under these By-laws until its members resolve it is to be dissolved or wound-up in accordance with By-law 19.
- 17.2 If the Law Council shall be disbanded and no similar body is constituted to take its place and substantially fulfil its functions sufficient to make such a body come within the definition of "Law Council" contained in these By-laws then this Section shall cease to be a Section of the Law Council but may continue as an independently constituted body to be called the "Australian Family Lawyers Association". Upon the Section becoming independent in that manner these By-laws will be read disregarding all references to the Law Council and the word "Section" shall be replaced with the word "Association".

18. INCOME AND PROPERTY

The income and property of the Section whencesoever derived shall be applied solely towards the promotion of the objects of the Section and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, gift, bonus or otherwise howsoever by way of profit to the persons who at any time are or have been members or associate members of the Section or to any of them or to any person claiming through other than in furtherance of the objects of the Section PROVIDED THAT nothing herein contained shall prevent the payment in good faith of remuneration to any officers or servants of the Section or to any Section Executive member or associate member of the Section or their representatives in return for any services actually rendered to the Section or reasonable and proper rent for premises demised or let by any such person nor

the reasonable out-of-pocket expenses properly incurred by such persons acting under the authority of the Council in matters relating to the Section.

19. DISSOLUTION OR WINDING-UP

The members of the Section may at any time by special resolution passed at a duly convened general meeting of the Section determine to dissolve and wind up the Section and thereupon the Section shall cease and be dissolved provided eight (8) weeks notice thereof has been given to members of the Section which notice sets out the proposed resolution in full and is sent out with an explanatory memorandum therefor and a proxy form enabling members to vote by proxy for or against the proposed resolution. At the same time or by other subsequent or other special resolutions the members may do any one or more of the following acts, namely:

- (a) Appoint a liquidator or liquidators;
- (b) Appoint a Committee of Inspection of any number;
- (c) Give such remuneration as may be thought desirable to the said liquidator or liquidators and Committee of Inspection or either of them;
- (d) Confer upon such liquidator or liquidators and Committee such powers, authorities, rights and privileges as may be thought desirable.

As soon as practical after passing of the special resolution to dissolve and wind up the Section the liquidator or liquidators shall prepare an account or balance sheet showing the position of the Section.

20. DISTRIBUTION UPON WINDING-UP

If upon the dissolution or winding-up of the Section there remains after the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed among the members or associate members of the Section but shall be transferred forthwith to the Law Council. Should the Law Council itself have been disbanded, it shall be given or transferred to some association, corporation or other body having objects similar to the objects of the Section to be determined by the members of the Section at or before the time of the dissolution and in default thereof by such Court as shall have jurisdiction in the matter.

21. LODGEMENT OF PROXY

- 21.1 The appointment of a proxy must be received by the Section (unless otherwise specified in the notice of meeting to which the proxy relates) before the holding of a vote on which the appointee proposes to vote as

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proxy, which appointment is to be in writing and may be in electronic form.

21.2 The Section receives an appointment of proxy or other authority under which it was executed when they are received at:

21.2.1 the office of the Section;

21.2.2 a place, facsimile number or electronic address specified for that purposes in the notice of meeting; or

21.2.3 a general meeting

21.3 A vote cast in accordance with an appointment of proxy is valid even if before the vote was cast the appointer;

21.3.1 died;

21.3.2 became mentally incapacitated; or

21.3.3 revoked the proxy,

unless any written notification of the death, unsoundness of mind or revocation was received by the Section before the relevant meeting or adjourned meeting.

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