

# Law Foundation Act 1979 No 32

[1979-32]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 January 2000 to 21 December 2000 (accessed 23 November 2024 at 7:41)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 20 (1) of the [Law and Justice Foundation Act 2000 No 97](#) with effect from 22.12.2000.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Law Foundation Act 1979 No 32



New South Wales

An Act to incorporate the Law Foundation of New South Wales; to define its objects and powers; and for other purposes.

## 1 Name of Act

This Act may be cited as the *Law Foundation Act 1979*.

## 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

## 3 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**Board** means the Board of Governors of the Foundation established by section 7.

**Chairperson** means the Chairperson of the Board for the time being holding office under clause 5 of Schedule 1.

**Director** means the Director of the Foundation for the time being holding office under section 8.

**Foundation** means the Law Foundation of New South Wales constituted by section 4.

**function** includes power, authority and duty.

**Fund** means the Law Foundation Fund established by section 16.

**member** means a member of the Board.

**perform**, in relation to a function that is a power or an authority, means exercise the power or authority and, in relation to a duty, means discharge the duty.

**Public Purpose Fund** means the Fund maintained under Division 2 of Part 6 of the *Legal Profession Act 1987*.

**Society** means The Law Society of New South Wales.

#### **4 Constitution of Law Foundation of New South Wales**

- (1) There is hereby constituted a body corporate under the corporate name of the “Law Foundation of New South Wales”.
- (2) The Law Foundation is an exempt public authority for the purposes of the *Corporations Law*.

#### **5 Objects of the Foundation**

The objects of the Foundation are:

- (a) to promote the advancement, improvement and extension of the legal education of members of the community, whether or not they have, or are in the process of obtaining, qualifications relating to the practice of law,
- (b) to conduct and sponsor research into the law, the legal system, law reform and the legal profession or any branch or section thereof and into their impact on the community,
- (c) to further law reform,
- (d) to contribute to the establishment and improvement of law libraries and to investigate and implement ways of expanding the community’s access to legal information,
- (e) to collect, assess and disseminate, and to promote and assist in the collection, assessment and dissemination of, information relating to legal education, the law, the legal system, law reform, the legal profession and legal services,
- (f) to encourage, support or sponsor projects aimed at facilitating access to legal information and legal services,
- (g) to provide services to promote the legal rights of economically or socially disadvantaged people or groups of people and to improve access to the legal system for such people or groups of people, and
- (h) to provide access to legal information and legal services for economically or socially disadvantaged people or groups of people.

#### **6 Powers of the Foundation**

The Foundation may:

- (a) accept gifts, devises and bequests made to the Foundation, whether on trust or

otherwise, and act as trustee of money or other property vested in the Foundation upon trust,

- (b) arrange for the printing, publication and distribution of information obtained as a result of the performance of the objects of the Foundation,
- (c) borrow money in such manner and upon such security, if any, as the Board may determine,
- (d) provide funds and make grants for the performance of any of the objects of the Foundation, and
- (e) do anything incidental or conducive to the carrying out of any of the objects of the Foundation.

## **7 Establishment of Board of Governors**

- (1) There shall be a board to be called the “Board of Governors of the Law Foundation of New South Wales” which, subject to section 9, shall determine policies for the implementation of its objects, conduct and manage the affairs of the Foundation and perform any other functions conferred or imposed on it by this Act.
- (2) Schedule 1 has effect with respect to the constitution and procedure of the Board.

## **8 Director**

- (1) The Board shall from time to time appoint a person to be the Director of the Foundation.
- (2) (Repealed)

## **9 Duties of Director**

The Director shall conduct and manage the affairs of the Foundation in accordance with any directions of the Board and any delegation made to the Director under section 15.

## **10 Appointment and term of office of Director**

The Director holds office for such term (not exceeding 5 years) as is specified in the Director’s instrument of appointment but is eligible for re-appointment.

## **11 Remuneration of Director**

The Director shall be paid such remuneration (including travelling and subsistence allowances), and be entitled to such superannuation benefits on such conditions, as the Board may from time to time determine in respect of the Director.

## **12 Termination of appointment of Director**

- (1) The Board may remove the Director from office on the grounds of misbehaviour or

incompetence.

- (2) Without limiting subsection (1), the Director is guilty of misbehaviour if the Director contravenes clause 15 or 16 of Schedule 1.

### **13 Vacation of office of Director**

The office of Director becomes vacant if the Director:

- (a) dies,
- (b) resigns his or her office by writing under his or her hand addressed to the Board,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958*, or a person under detention under Part 7 of that Act,
- (e) is convicted in New South Wales of an indictable offence punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an indictable offence so punishable,
- (f) without the approval of the Board, engages in paid employment outside the duties of the office, or
- (g) is removed from office under section 12 (1).
- (h) (Repealed)

### **14 Acting Director**

- (1) The Board may appoint a person to act in the office of Director whenever the Director is absent from office through illness or other cause or while the office of the Director is vacant, and the person so appointed, while so acting, shall be deemed to be the Director and have the immunities and functions of the Director (including the functions of the Director as a member).
- (2) Any such person holds office for such term (not exceeding 12 months) as is specified in the person's instrument of appointment but is eligible for re-appointment.
- (3) The Board may:
  - (a) determine the terms and conditions of appointment of a person as acting Director, and

(b) at any time terminate such an appointment.

- (4) The validity of any act done by a person appointed, or purporting to be appointed, as acting Director, including the attendance and voting by that person at a meeting of the Board, shall not be questioned in any proceeding on the ground that the occasion for the person's appointment had not arisen.

## **15 Delegation by Board**

- (1) Subject to this section, the Board may, by instrument in writing, delegate to the Director the performance of such of the functions (other than this power of delegation) of the Board as are specified in the instrument of delegation and may in like manner revoke any such delegation wholly or in part.
- (2) A delegation under this section may be made subject to such conditions or such limitations as to the performance of any of the specified functions, or as to time or circumstances, as are specified in the instrument of delegation.
- (3) Where a specified function is performed by the Director and the performance of the function is evidenced in writing signed by the Director in the Director's own name on behalf of the Board, the function shall be deemed to have been performed by the Board, whether or not an instrument delegating the performance of the function to the Director was in force when the function was performed and whether or not any conditions or limitations referred to in subsection (2) were observed by the Director when performing the function.
- (4) Notwithstanding a delegation made under this section, the Board may continue to perform the function delegated.

## **16 Establishment of the Law Foundation Fund**

- (1) There shall be a fund to be called the "Law Foundation Fund".
- (2) The Fund shall be the property of the Foundation and shall be maintained by the Foundation.

## **17 Composition of Fund**

The Fund shall consist of:

- (a) all money standing to the credit of, and all investments and other property forming part of, the former Foundation,
- (b) all money paid to the Foundation out of the Public Purpose Fund,
- (c) all money borrowed by the Foundation under this Act,
- (d) all investments made under section 19,



- (e) the proceeds of any investments made under section 19, and
- (f) any other money or other property received from any source by the Foundation.

### **18 Payments out of the Fund**

- (1) There may be paid out of the Fund:
  - (a) all charges, costs and expenses incurred by the Board or the Director in the administration of the Foundation,
  - (b) all charges, costs and expenses otherwise incurred in the administration of this Act, and
  - (c) grants or payments for carrying out the objects of the Foundation.
- (2) Subsection (1) has effect subject to any trust under which the Foundation is the trustee.

### **19 Investment**

The Board may invest money held by the Foundation in any securities authorised by the [Trustee Act 1925](#) or, in the case of money held on trust, in any manner authorised by the instrument creating the trust.

### **20 Accounts**

The Foundation shall cause to be kept proper accounts and records in relation to all of its operations and shall do all things necessary to ensure that all payments are correctly made and properly authorised and that adequate control is maintained over the assets of or in the custody of the Foundation and over the incurring of liabilities by the Foundation.

### **21 Audit**

The Foundation shall cause the accounts of the Foundation to be audited annually by a registered public accountant.

### **22 Annual report**

- (1) As soon as practicable after 30 June in each year, the Foundation shall cause to be prepared an annual report, exhibiting a true and correct view of the financial position as at that date and the transactions of the Foundation with respect to the period of 12 months ending on that date.
- (2) The annual report referred to in subsection (1) shall be submitted to the Board by 1 December in each year and shall be made available for inspection at the office of the Foundation at all reasonable hours by any member of the public.
- (3) The Attorney General shall lay the annual report referred to in subsection (1), or cause

it to be laid, before both Houses of Parliament as soon as practicable after receiving the report.

## **23 (Repealed)**

# **Schedule 1 Constitution and procedure of Board of Governors**

(Section 7 (2))

## **1 Definition**

In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires, **appointed member** means a member appointed under clause 2 (2).

## **2 Composition of the Board**

- (1) The Board shall consist of 11 members referred to in subclauses (2) and (3) of this clause.
- (2) Nine of the members shall be appointed by the Attorney General and of them:
  - (a) 5, of whom not more than 3 may be legal practitioners, shall be persons who, in the opinion of the Attorney General, have special knowledge, experience or interest in relation to any of the objects of the Foundation,
  - (b) 2 shall be nominated by the Council of the Society,
  - (c) 1 shall be nominated by the New South Wales Bar Association, and
  - (d) 1, who shall be a member of the Legislative Council or the Legislative Assembly, shall be nominated by the Leader of the Opposition in the Legislative Assembly.
- (3) The other 2 members shall be:
  - (a) the Attorney General or a person from time to time nominated by the Attorney General, and
  - (b) the person for the time being holding office as Director.
- (4) Where nominations for the purposes of subclause (2) (b) or (c) of this clause are not submitted within the time or in the manner specified by the Attorney General in a notice in writing given to the body entitled to submit nominations, the Attorney General may appoint a person to be a member instead of the member required to be appointed, being a person possessing the same qualification for appointment as the member required to be appointed.
- (5) The Attorney General shall before making an appointment under subclause (2) (a) of this clause:
  - (a) cause to be published such advertisements, inviting applications from persons to

apply to become members, in such form and manner as the Attorney General directs, and

(b) take into consideration any such applications received by the Attorney General.

## **2A Alternate members**

- (1) The Attorney General may, from time to time, appoint an alternate member to act in the office of a member referred to in clause 2 (2) (b), (c) or (d) during the illness or absence of the member, and the alternate member, while so acting, shall have and may perform all the functions of the member and shall be deemed to be an appointed member.
- (2) An alternate member shall have the same qualification and be nominated in the same manner as the member for whom he or she is the alternate member.
- (3) An alternate member shall, subject to this Act, hold office until the occurrence of a vacancy in the office of the member for whom he or she is the alternate member.
- (4) An alternate member is entitled to be paid such travelling and subsistence allowances as the Board may from time to time determine in respect of the alternate member.

## **3 (Repealed)**

## **4 Terms of office of appointed members**

- (1) An appointed member (other than the member appointed under clause 2 (2) (d)) shall, subject to this Act, hold office for such period, not exceeding 3 years, as is specified in the member's instrument of appointment and shall, if otherwise qualified, be eligible for re-appointment as a member.
- (2) The member appointed under clause 2 (2) (d) shall, subject to this Act, hold office until the member's successor is appointed.
- (3) The Leader of the Opposition in the Legislative Assembly may at any time while a person appointed under clause 2 (2) (d) holds office nominate another person who is a member of the Legislative Council or the Legislative Assembly to be the member of the Foundation appointed pursuant to clause 2 (2) (d).
- (4) On the expiry of the term of office of an appointed member (other than a member appointed under clause 2 (2) (d)):
  - (a) the person who held the office concerned immediately before the expiry of that term is to act in that office until the person's successor is appointed (or the person is reappointed) or until the expiration of a period of 3 months from that expiry, whichever occurs first, and
  - (b) while so acting, the person has and may perform all the functions of a member

and is taken to be an appointed member.

## **5 Chairperson**

The Attorney General shall as often as occasion requires appoint 1 of the members to be the Chairperson of the Board.

## **6 Provisions relating to appointed members**

- (1) Where, by or under any Act, provision is made requiring a person who is the holder of an office specified therein to devote the whole of the person's time to the duties of the office, that provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any travelling and subsistence allowances payable to an appointed member under clause 7.
- (2) The office of an appointed member shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.

## **7 Travelling and subsistence allowances**

A member other than the Director is entitled to be paid such travelling and subsistence allowances as the Board may from time to time determine in respect of the member.

## **8 Vacation of office of appointed member**

The office of an appointed member becomes vacant if the member:

- (a) dies,
- (b) resigns his or her office by writing under his or her hand addressed to the Attorney General,
- (c) except in the case of a member appointed under clause 2 (2) (d), is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member, unless on leave granted to the member by the Board,
- (d) except in the case of the member appointed under clause 2 (2) (d), becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (e) except in the case of the member appointed under clause 2 (2) (d), becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#), or a person under detention under Part 7 of that Act,
- (f) except in the case of the member appointed under clause 2 (2) (d), is convicted in New South Wales of an indictable offence punishable by imprisonment for 12 months

or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an indictable offence so punishable,

- (g) ceases to hold the qualification by virtue of which the member was nominated for appointment,
- (h) in the case of the member appointed under clause 2 (2) (d), has a successor appointed, or
- (i) has his or her membership of the Board terminated under clause 17.
- (j) (Repealed)

### **9 Filling of casual vacancies**

On the occurrence of a vacancy in the office of an appointed member, the Attorney General may appoint a person to the vacant office for the balance of his or her predecessor's term of office, being a person qualified and nominated under the same paragraph of clause 2 (2) as the predecessor.

### **10 Quorum**

A quorum at any meeting of the Board shall consist of 5 members.

### **11 Meetings**

- (1) A duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.
- (2) Questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.
- (3) The Chairperson shall preside at all meetings of the Board at which the Chairperson is present and, if the Chairperson is absent from any meeting, the members shall appoint 1 of their number to preside at that meeting.
- (4) The Chairperson or other member presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

### **12 Minutes**

The Board shall cause full and accurate minutes to be kept of its proceedings at meetings.

### **13 General procedure**

- (1) Subject to subclause (2) of this clause, the procedure for the calling of, and for the conduct of business at, meetings of the Board shall be as determined by the Board.
- (2) (Repealed)

**14 Protection from liability**

No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by a member, shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject a member personally to any action, liability, claim or demand.

**15 Member not to vote in respect of certain contracts**

A member shall not vote in respect of any contract or proposed contract with the Foundation in which the member is directly or indirectly interested, or any matter arising thereout, and if the member does so vote the vote shall not be counted.

**16 Member to disclose interest in certain contracts**

Where a member is or becomes directly or indirectly interested in any contract or proposed contract with the Foundation, or any matter arising thereout, the member shall, as soon as practicable, disclose the nature of the interest at a meeting of the Board.

**17 Termination of membership in the event of non-disclosure etc of interest**

Where an appointed member contravenes clause 15 or 16, the Attorney General may terminate the member's membership.