

LEGISLATIVE COUNCIL

Read 1° 16 June 1982

(Brought from the Legislative Assembly)

A BILL

for

An Act to amend the *Historic Buildings Act* 1981, to repeal the *Government Buildings Advisory Council Act* 1972, the *Government Buildings Advisory Council (Amendment) Act* 1981, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Historic Buildings (Amendment) Act* 1982. Short title.

(2) In this Act the *Historic Buildings Act* 1981 is called the Principal Act. Principal Act No. 9667.

10 (3) The several provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette* except for section 3 which shall be deemed to have come into operation on 1 June 1982. Commencement.

15 2. (1) The Acts mentioned in the Schedule to the extent to which they are in the Schedule expressed to be repealed are hereby repealed accordingly. Repeal. Schedule.

Savings.

(2) Except in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under any Act which is amended or repealed by this Act or existing or continuing under any such Act immediately before the commencement of this section shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if this Act had not been passed; and 5 10
- (b) in particular, and without affecting the generality of paragraph (a), the amendment or repeal shall not disturb the continuity of status operation or effect of any regulation, order, interim development order, planning scheme, designation, approval, report, recommendation, application, permit, covenant, consent, alteration, liability or right made, effected, issued, granted, given, entered into, incurred or acquired or existing or continuing before the commencement of this section by or under any Act which is amended or repealed by this Act. 15 20

3. After section 2 of the Principal Act there shall be inserted the following:

Transitional provisions for Classification Sub-committee.

'2A. (1) Hearings pending before the Committee pursuant to section 10 of the *Historic Buildings Act* 1974 before 1 June 1982 shall be heard by the Council pursuant to this Act. 25

(2) If prior to 1 June 1982 a hearing under section 10 (3) of the *Historic Buildings Act* 1974 had begun but—

- (a) the hearing had not been completed; or
- (b) the hearing had been completed but a recommendation under section 10 (1) (a) of the *Historic Buildings Act* 1974 had not been made— 30

then in the case referred to in—

- (c) paragraph (a) the hearing shall be completed and a recommendation may be made; 35
- (d) paragraph (b) a recommendation may be made in respect of that hearing—

in accordance with the provisions of the *Historic Buildings Act* 1974 as it could have been completed or made immediately before 1 June 1982. 40

(3) For

(3) For the purposes of completing the hearing and making the recommendation in respect thereof under sub-section (2) the Preservation Council and the Committee shall, notwithstanding the provisions of this Act, continue to exist.

5 (4) Where the Minister receives a recommendation under sub-section (2) he may act on the recommendation as though it was made by the Council under this Act except that the provisions of sections 21 to 25 inclusive of this Act shall not apply to the recommendation.

10 (5) A recommendation in respect of a hearing pursuant to sub-section (2) shall have the same force and effect as it would have had if it had been made immediately before 1 June 1982.

(6) In this section—

15 (a) “Committee” means the Classifications Sub-committee established under section 7 (1) of the *Historic Buildings Act 1974*;

(b) “Preservation Council” means the Historic Buildings Preservation Council under the *Historic Buildings Act 1974*.

20 4. In section 1 (4) of the Principal Act for the expression:

“Division 1—Register of Historic Buildings ss. 14–32.”

there shall be substituted the following:

“Division 1—Register of Historic Buildings ss. 14–27.

Division 1A—Register of Government Buildings ss. 28–32B.”.

Amendment of
No. 9667 s. 1
(4).

25 5. Section 3 of the Principal Act shall be amended as follows:

Amendment of
No. 9667 s. 3.

(a) The definition of “Provisional Register” shall be repealed;

“Provisional
Register”
repealed.

(b) After the definition of “Council” there shall be inserted the following:

“Designated
Building.”
New
definition.

30 ““Designated Building” means a building specified in the Register of Government Buildings.”;

(c) After the definition of “Fund” there shall be inserted the following:

35 ““Government building” means, subject to section 29, any building on Crown land or on land vested in any Minister of the Crown or on land vested in any public authority but does not include a building on any Crown land which is permanently or temporarily reserved pursuant to section 4 of the

“Government
Building.”

Crown

Crown Land (Reserves) Act 1978 and which is vested in trustees or is under the control of a committee of management pursuant to that Act.’;

“Public Authority.”

- (d) After the definition of “Prescribed” there shall be inserted the following: 5

“Public authority” means the Council of the Science Museum of Victoria, the Council of Trustees of the National Gallery of Victoria, the Country Roads Board, the Exhibition Trustees, the Forests Commission of Victoria, the Gas and Fuel Corporation of Victoria, the Port of Geelong Authority, the Health Commission of Victoria, the Library Council of Victoria, the Melbourne and Metropolitan Board of Works, the Melbourne Underground Rail Loop Authority, the National Museum of Victoria Council, the Port of Portland Authority, the Port of Melbourne Authority, the Railway Construction and Property Board, the State Electricity Commission of Victoria, the State Rivers and Water Supply Commission, the Victorian Arts Centre Trust, the Victorian Public Offices Corporation, the Victorian Railways Board, and any person or body of persons (whether corporate or unincorporate) proclaimed to be a public authority for the purposes of this Act by proclamation of the Governor in Council published in the *Government Gazette* but does not include any municipality or the council of any municipality.’; 10
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“Register of Government Buildings.”

- (e) After the definition of “Register” there shall be inserted the following: 30

“Register of Government Buildings” means the Register of Government Buildings under section 28.’.

Amendment of No. 9667 s. 5.

6. Section 5 (1) of the Principal Act shall be amended as follows:

- (a) For the words “twelve members” there shall be substituted the words “fifteen members”; 35

- (b) Before paragraph (a) there shall be inserted the following:
“(aa) a person with knowledge and experience appropriate to the functions of the Council nominated by the Minister;”;

- (c) In paragraph (d)— 40
(i) for the word “nine” there shall be substituted the word “eleven”;

(ii) the

(ii) the word “and” at the end of sub-paragraph (viii) shall be repealed;

(iii) after sub-paragraph (ix) there shall be inserted the following:

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“(x) an architectural historian; and

(xi) a person selected from a panel of three names submitted by the Victorian Public Service Association.”.

10 7. (1) In sub-sections (6) and (7) of section 5 of the Principal Act before the words “The Minister for the Arts” there shall be inserted the words “The Minister”. Amendment of No. 9667, s. 5 (6) and (7) and 7 (3).

(2) In section 7 (3) of the Principal Act for the word “seven” there shall be substituted the word “eight”.

8. Section 9 (1) of the Principal Act shall be amended as follows: Amendment of No. 9667 s. 9.

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(a) In sub-paragraph (a) (i) for the words “which it considers should” there shall be substituted the word “to”;

(b) For paragraphs (b) and (c) and the word “and” between them there shall be substituted the following:

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“(b) to report to the Minister of its own motion or at his request—

(i) on any matter relating to buildings or land on the register;

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(ii) on any government building which has been or is hereafter classified as being of historic, architectural or other significance or interest by the National Trust of Australia (Victoria);

(iii) on any government building other than those specified in sub-paragraph (ii) which may be of significance or interest;

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(iv) on the administration of this Act;

(v) on any matter which might facilitate the preservation of a registered building or a designated building;

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(c) to report to the Minister at his request on any designated building in relation to which the Minister has received a notice of proposal pursuant to section 31;

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(d) to report to the Minister on a proposal to remove, demolish or alter a designated building pursuant to section 32A;

(e) to

- (e) to provide information about and promote interest in the preservation of buildings and areas of architectural or historic importance; and
- (f) to exercise any other powers and carry out any other duties conferred or imposed on it by or under this Act.” 5

Amendment of
No. 9667 s. 9
(2).

9. For section 9 (2) of the Principal Act there shall be substituted the following:

“(2) The Council may of its own motion or at the request of the Minister or a responsible authority prepare reports and recommendations in relation to any matter referred to in clause 8 or 8B of the Third Schedule to the *Town and Country Planning Act 1961*. 10

(2A) A report requested under sub-section (2) shall be submitted to the Minister or the responsible authority requesting the report. 15

(2B) Copies of a report prepared by the Council of its own motion under sub-section (2) shall be forwarded to the Minister and to any responsible authority which has planning jurisdiction over land or buildings referred to in the report.”.

Amendment of
No. 9667 s. 11.

10. In section 11 (1) (b) of the Principal Act for the expression “and 36” there shall be substituted the expression “36 and 40”. 20

Amendment of
No. 9667 s. 14
(2).

11. In section 14 (2) of the Principal Act the words “within the meaning of the *Government Buildings Advisory Council Act 1972*” shall be repealed.

Amendment of
No. 9667 s. 15.

12. Section 15 of the Principal Act shall be repealed. 25

Amendment of
No. 9667 s. 16.

13. (1) In section 16 (1) of the Principal Act—

- (a) for the words “the provisional register and the register are” there shall be substituted the words “the register is”;
- (b) the words “or provisional register” shall be repealed.

(2) In section 16 (2) of the Principal Act the words “or provisional register” shall be repealed. 30

Amendment of
No. 9667 s. 17.

14. Section 17 of the Principal Act shall be amended as follows:

- (a) In sub-sections (1) and (3) the words “and the provisional register” shall be repealed;
- (b) In sub-section (2) the words “or the provisional register” (wherever occurring) shall be repealed; 35
- (c) In sub-section (3) the words “or provisional register” shall be repealed;
- (d) In sub-section (4) the words “provisional register” shall be repealed. 40

15. Section

15. Section 18 of the Principal Act shall be amended as follows: Amendment of No. 9667 s. 18.

(a) For sub-section (1) (c) there shall be substituted the following:

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“(c) on the application of the owner or any person in the prescribed form;

(b) Sub-sections (3), (4), (5) and (10) shall be repealed;

(c) For sub-section (7) there shall be substituted the following:

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“(7) In making an examination the Council shall consider whether the building is of architectural or historic importance.”;

(d) Paragraph (a) of sub-section (8) and the expression “; and (b)” following that paragraph shall be repealed.

16. Section 21 of the Principal Act shall be amended as follows: Amendment of No. 9667 s. 21.

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(a) For the expression “21. (1)” there shall be substituted the expression “21”;

(b) Sub-sections (2) and (3) shall be repealed.

17. Sections 22, 23, 24 and 25 of the Principal Act shall be repealed. Amendment of No. 9667.
Repeal ss. 22, 23, 24 and 25.

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18. Section 26 of the Principal Act shall be amended as follows: Amendment of No. 9667 s. 26.

(a) Sub-section (9) shall be repealed;

(b) For sub-section (11) there shall be substituted the following:

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“(11) In determining an application in respect to any alteration to a registered building or registered land (being a church or land within the precinct of a church) for purposes which are of a religious or liturgical nature the Council shall not make a determination which will prevent the carrying out of religious rites liturgies or accepted practices of worship in or relating to that church.”.

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19. Section 27 (6) of the Principal Act shall be repealed. Amendment of No. 9667.
S. 27 (6) repealed.

20. (1) For sections 28, 29, 30, 31, and 32 of the Principal Act there shall be substituted the following: Amendment of No. 9667.
Ss. 28, 29, 30, 31 and 32 substituted.

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“DIVISION 1A.—REGISTER OF GOVERNMENT BUILDINGS.

28. (1) The Minister shall cause a Register of Government Buildings to be established and kept specifying the buildings which are designated buildings for the purposes of this Act. Register of Government Buildings.

(2) The

(2) The Register of Government Buildings shall consist of the Register of Government Buildings under the *Government Buildings Advisory Council Act 1972* as constituted immediately prior to the commencement of this Act.

(3) The Minister may by notice published in the *Government Gazette* amend the Register of Government Buildings—

- (a) by adding any specified building;
- (b) by removing any specified building; or
- (c) by altering any item.

(4) At the time a building is placed on the Register of Government Buildings or at any time thereafter the Minister may declare that—

- (a) alterations of certain types; or
- (b) alterations to certain parts of the building—

may be carried out without consulting the Minister pursuant to section 31. 15

(5) A copy of the Register of Government Buildings duly amended shall be kept at the office of the Council and shall be available for inspection by members of the public without charge during normal office hours.

Disputes about meaning of government building.

29. If any question arises or is about to arise as to whether any building is or is not a government building within the meaning of this Act such question may be finally and conclusively determined by the Governor in Council in such manner as he thinks fit. 20

Reports on Government buildings.

30. (1) Where the Minister is of the opinion that a report on a particular government building is necessary or desirable he may require the Council to report on that building within a specified time. 25

(2) A report on a government building under sub-paragraphs (ii) and (iii) of paragraph (b) of section 9 (1) shall indicate whether or not the Council recommends the preservation of the building and whether the whole of the building or a specified part of the building should be included on the Register of Government Buildings and in the case of a structure work or object whether the whole or a specified part of the structure work or object should be included on the Register of Government Buildings giving reasons for the view expressed. 30 35

(3) Where the Council does recommend the preservation of a building pursuant to sub-section (2) the report shall include the Council's opinion as to—

- (a) possible future uses of the building;
- (b) any renovations or additions to the building which are necessary or desirable or which will be required to enable such proposed use; 40

(c) the

(c) the estimated cost of any such renovations or additions;
and

(d) the estimated cost of the future maintenance of the
building—

5 and shall be accompanied by an estimate of the value of the land
and an estimate of any economic loss to the State if the building is
preserved.

31. (1) A Minister or any other person or body of persons
(whether corporate or unincorporate) responsible for the care
10 management or control of a designated building shall not authorize
the demolition removal or alteration of that building except after
consultation with the Minister.

Approval to
demolish
remove or
alter.

(2) Where a Minister or any other person or body of persons
(whether corporate or unincorporate) responsible for the care
15 management or control of a designated building proposes to remove
demolish or alter that building he shall notify the Minister and the
Council of the proposal.

(3) The Minister shall refer a notice under sub-section (1) to the
20 Council for a report as to whether the designated building should
be removed demolished or altered except in the case of an alteration
which he considers will not substantially modify or change the
appearance or use of the designated building.

32. Where, after a consultation pursuant to section 31, the
Minister and any other Minister or any other person or body of
25 persons (whether corporate or unincorporate) responsible for the
care management or control of a designated building fail to agree as
to whether or not the building should be removed demolished or
altered the matter shall be finally and conclusively determined by
the Governor in Council.

Governor in
Council to
resolve
disagreement
regarding
removal
demolition
or alteration
of certain
designated
buildings.

30 32A. (1) Where the Minister is responsible for the care
management or control of a designated building he shall not authorize
the removal or demolition of that building except after consultation
with the Governor in Council.

Designated
buildings
under the
control of
the Minister
administering
this Act.

(2) The Minister shall notify the Council of any proposal
35 pursuant to sub-section (1) and request a report from the Council
as to whether the designated building should be removed or
demolished.

(3) Where the Minister is responsible for the care management
or control of a designated building and he proposes to alter that
40 building he may request a report from the Council on that proposal.

32B. Where any government building has been specified in the
Register of Historic Buildings under section 14, or any building on
that Register becomes a government building at any time after

being

being included on that Register that building shall be deemed to be removed from that Register and the Minister shall request the Council to make an examination of the building pursuant to section 9 (1) (b).”

Transitional.

(2) Where at the commencement of this section a notice under section 11 (2) of the *Government Buildings Advisory Council (Amendment) Act 1981* has not been published then as soon as may be after the commencement of this section the Minister shall cause to be published in the *Government Gazette* a notice specifying the buildings which will initially constitute the Register of Government Buildings. 5 10

Amendment of No. 9667 s. 40.

21. (1) In section 40 (2) of the Principal Act—

(a) for the words “with the consent of the Minister” there shall be substituted the words “or the Chairman of the council”; 15

(b) after the word “Council” (where third occurring) there shall be inserted the words “or the Chairman”.

(2) After section 40 (2) of the Principal Act there shall be inserted the following:

“(2A) Where the Chairman has caused to be served an interim preservation order under sub-section (2), the order shall cease to have any force or effect 14 days after service of the order unless the Council confirms the order”. 20

(3) In section 40 (9) of the Principal Act before the words “An interim preservation order” there shall be inserted the words “Subject to sub-section (2A)”. 25

Amendment of No. 9667 s. 57.

22. In section 57 (1) of the Principal Act the words “or the Minister has declared that the owner of any building or land on the provisional register has in his opinion failed to comply with the agreement” shall be repealed. 30

Amendment of No. 9667 s. 62 (2) (b).

23. In sub-paragraphs (i) and (ii) of paragraph (b) of section 62 (2) of the Principal Act for the words “the provisional register” there shall be substituted the words “the register of government buildings”.

Amendment of No. 9667 s. 63 (1).

24. In paragraph (a) of section 63 (1) of the Principal Act for the words “the provisional register” there shall be substituted the words “the register of government buildings”. 35

Saving of reconstituted council.

25. Notwithstanding the reconstitution of the Historic Buildings Council effected by this Act the Council shall be deemed to be the same body after as before the commencement of section 6 and no act matter or thing shall be abated thereby. 40

SCHEDULE

Section 2

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
8265	<i>Government Buildings Advisory Council Act 1972</i>	The whole
9580	<i>Government Buildings Advisory Council (Amendment) Act 1981</i>	The whole

