

Melbourne and Metropolitan Board of Works (Reconstitution) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 17 October 1985

(Brought in by Mr McCutcheon and Mr Fordham)

A BILL

to amend the *Melbourne and Metropolitan Board of Works Act 1958*
and for other purposes.

Melbourne and Metropolitan Board of Works (Reconstitution) Act 1985

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to alter the constitution of the Melbourne and Metropolitan Board of Works.

5 Commencement.

2. This Act comes into operation on a day to be proclaimed.

Principal Act.

3. In this Act the *Melbourne and Metropolitan Board of Works Act 1958* is called the Principal Act.

Act No. 6310.
Reprinted to No.
9427
Subsequently
amended by Nos.
9549, 9558,
9573, 9684,
9699, 9700,
9720, 9735,
9746, 9754,
9824, 9895,
9921, 9945,
9999, 10081,
10087, 10119
and 10187.

Constitution of Board.**4. Section 4 of the Principal Act is amended as follows:**

(a) For sub-section (2) substitute—

“(2) The Board shall consist of the following members—

(a) a part-time Chairman appointed in accordance with this Part; and 5

(b) five other part-time members appointed by the Governor in Council on the recommendation of the Minister of whom—

(i) one is to be a person with trade union experience recommended by the Minister after consultation with the Victorian Trades Hall Council; and 10

(ii) one is to be a person appointed to represent the interests of the Board's consumers; and 15

(iii) one is to be a person with experience in business management; and

(iv) one is to be a person with experience in environmental management; and

(v) one is to be a person with experience in local government; and 20

(c) the person for the time being holding the office of General Manager of the Board;”;

(b) Sub-sections (3) and (3B) are repealed;

(c) In sub-section (3A) after “Board” insert “appointed under sub-section (2) (b)”. 25

Abolition of Area Commissions.

5. Sections 5, 5A, 5B, 5C, 5D, 5E, 6, 7, 9, 11, 13, 19, 22, 23, 58 and 59 of the Principal Act and Schedule Thirteen to the Principal Act are repealed. 30

Substitution of section 15.

6. For section 15 of the Principal Act substitute—

Certain persons not eligible to be members.

“15. (1) A person who is—

(a) an undischarged bankrupt; or 35

(b) holds an office or place of profit under or in the gift of the Board—

shall not be eligible to be a member of the Board.

(2) Sub-section (1) (b) does not apply to the General Manager.”

Vacation of office.

7. Section 16 of the Principal Act is amended as follows:

(a) For the first paragraph substitute—

“(1) The Governor in Council may at any time remove a part-time member of the Board from office.

(2) The office of a part-time member of the Board becomes vacant if that member—

(a) accepts an office or place of profit under or in the gift of the Board; or

(b) is concerned or participates in any manner whether directly or indirectly in any contract with the Board or the profit thereof or in the profit of any work done under the authority of this Act; or

(c) is absent from four consecutive ordinary meetings of the Board without leave having been granted by the Board; or

(d) becomes bankrupt; or

(e) is removed from office or resigns that office; or

(f) is convicted of an indictable offence; or

(g) dies.”; and

(b) In the second paragraph for “No person” substitute “(3) No person”; and

(c) After the second paragraph insert—

“(4) In this section ‘part-time member’ means the Chairman or a member of the Board appointed under section 4 (2) (b).”.

New section 18 substituted.

8. For section 18 of the Principal Act, substitute—

30 Temporary vacancies.

“18. (1) If any member of the Board appointed under section 4 (2) (b) is unable whether on account of illness or otherwise to perform the duties of the member’s office, the Governor in Council may appoint an eligible person to act in the place of that member during the period of inability.

(2) A person appointed to act in the place of a member shall, while so acting—

(a) have all the rights and powers and perform all the duties of the member for whom the person is acting; and

(b) be paid the fees and allowances fixed by the Governor in Council from time to time having regard to the rate of fees

and allowances for the time being payable to members of the Board appointed under section 4 (2) (b).”

New section 21 substituted.

9. For section 21 of the Principal Act substitute—

Chairman of Board.

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“21. (1) The Governor in Council, on the recommendation of the Minister, shall by notice in writing published in the *Government Gazette* appoint a person to be a Chairman of the Board.

(2) Subject to this Part, the Chairman shall hold office for the period (not exceeding four years) specified in the instrument of appointment and shall be eligible for re-appointment.

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(3) The Governor in Council may at any time accept the resignation of the Chairman.

(4) The Chairman shall not while continuing to be Chairman be a member of Parliament or of any municipal council.”

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New section 23C inserted.

10. After section 23B of the Principal Act insert—

Vacancy provisions not to apply to sections 23A and 23B.

“23C. Section 16 (2) (a) and (b) shall not apply to anything done under sections 23A and 23B.”

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General Manager.

11. Section 25A of the Principal Act is amended as follows:

(a) For sub-section (2) substitute—

“(2) The Governor in Council may, on the recommendation of the Minister, by notice in writing published in the *Government Gazette* appoint a person to be General Manager of the Board.”;

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(b) In sub-section (3) for “advise the Board on policy” substitute “be a member of the Board”;

(c) For sub-section (4) substitute—

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“(4) The General Manager shall in the case of illness or absence of the Chairman of the Board or any vacancy in the office of the Chairman have and exercise the powers and perform the functions and duties of the Chairman.

(4A) The General Manager shall not be entitled to receive any additional fees and allowances for having and exercising the powers or performing the functions and duties referred to in sub-section (4).

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(4B) Sub-section (4) does not apply to section 28.”.

Acting officers.

12. Section 41A of the Principal Act is amended as follows:

- 5 (a) For “41A. Where” substitute “41A. (1) Where”;
- (b) At the end of the section insert—
- “(2) Nothing in sub-section (1) shall entitle an officer acting as General Manager to sit as a member of the Board or to vote on any question at any meeting of the Board.”.

Consequential amendments.

- 10 13. The Principal Act is amended as follows:
- (a) In section 4 (4) omit “or elected” (where twice occurring);
- (b) In section 4 (4A) omit “(including the General Manager of the Board)”;
- (c) In section 23A omit “(including the Chairman)”;
- 15 (d) In section 23B for “Chairman” substitute “General Manager”;
- (e) In the third paragraph of section 27 for “General Manager” substitute “deputy general manager”;
- (f) In the second paragraph of section 31—
- 20 (i) for “election” substitute “appointment”; and
- (ii) for “elected” substitute “appointed”;
- (g) In section 42 (3) (d) omit “the Chairman”;
- (h) In sections 189 (b) (ii) and 189A (b) (ii) for “General Manager or deputy general manager” substitute “deputy general manager or director of administration”;
- 25 (i) In section 257A (1) after “General Manager” (where secondly occurring) insert “deputy general manager”;
- (j) In section 257E after “General Manager” insert “deputy general manager”;
- 30 (k) In the Tenth Schedule for “General Manager” substitute “Deputy General Manager”;
- (l) In the Eleventh Schedule and Schedule 11AA for “General Manager or Deputy General Manager” substitute “Deputy General Manager or Director of Administration”.

35 **Transitional.**

14. (1) On the commencement of this Act—

- (a) the Chairman in office immediately before that day shall cease to be Chairman of the Board but, subject to the Principal Act as amended by this Act is eligible for re-appointment; and
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- (b) each of the members of the Board in office immediately before that day shall cease to be a member of the Board but subject to the Principal Act as amended by this Act is eligible for re-appointment; and
- (c) the Governor in Council shall appoint a person to be Chairman of the Board in accordance with section 21 of the Principal Act as amended by this Act; and 5
- (d) the Governor in Council shall appoint five other members of the Board in accordance with section 4 of the Principal Act as amended by this Act; and 10
- (e) the person for the time being holding the office of General Manager of the Board shall become a member of the Board in accordance with section 4 of the Principal Act as amended by this Act.
- (2) The body corporate of the Melbourne and Metropolitan Board of Works shall be and be deemed to be the same body corporate after the commencement of this Act as before that commencement notwithstanding the alterations made in the constitution thereof by the provisions of this Act. 15
- (3) No act matter or thing shall be in any way abated or affected by reason of the alteration of the constitution of the Board and any such act matter or thing may be continued and concluded in all respects as if this Act had not been passed. 20
- (4) In this section “**Board**” means the Melbourne and Metropolitan Board of Works. 25



