

City of Melbourne Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purposes of the Act, which are to re-constitute the City of Melbourne, to alter the boundaries of the municipal districts of the Cities of South Melbourne, Port Melbourne, Fitzroy and Essendon, to provide for other matters to enable the effective implementation of the restructuring provided for by the Act and to amend the **Local Government Act 1989** in relation to the City of Melbourne.

Clause 2 states that with the exception of section 12, the Act comes into operation on the day it receives Royal Assent. Section 12 is deemed to have come into operation on 28 September 1993.

Clause 3 contains definitions of terms used in the Act.

Clause 4 is an interpretive aid and ensures that in the event of any inconsistency with the **Local Government Act 1989**, the provisions of the City of Melbourne Act prevail.

PART 2—CITY OF MELBOURNE

Clause 5 (1) provides for the constitution of a City Council by the name of the Melbourne City Council and having the boundaries fixed by Schedule 1, for the former Council of the City of Melbourne to go out of existence and for Commissioners to administer the new Council as if they were the elected councillors of the Council.

Sub-clause (2) ensures that any future changes to the Melbourne City Council can be made the same way as changes are made to any other Council.

Clause 6 provides for the Melbourne City Council to take over the assets and liabilities of the former Council of the City of Melbourne, for the new Council to be the successor in law of the former Council and for other related matters.

Clause 7 (1) provides for the Governor in Council to appoint Commissioners who will act in the place of elected councillors. At least 3 and not more than 5 Commissioners can be appointed.

Sub-clauses (2)–(11) deal with the usual matters relating to the appointment of Commissioners.

Clause 8 (1) provides for the Commissioners to have all the functions, powers, duties and responsibilities you would normally expect of councillors.

Sub-clause (2) provides for a Commissioner or a Commissioner's nominee to represent the Council on other bodies.

Sub-clause (3) provides that the sections of the **Local Government Act 1989** which deal with the payment of allowances and expenses to councillors and the election of a Mayor and deputy Mayor, do not apply to the Commissioners.

Clause 9 deals with the procedure for meetings of the Melbourne City Council during the period of administration.

Clause 10 (1) sets out the duties of the Commissioners and states that the Commissioners must ensure that the operations of the new Council are carried out in the most efficient and economic manner possible.

Sub-clause (2) provides the Minister with a power of direction.

Clause 11 (1) transfers all existing staff of the former Council of the City of Melbourne to the new Council on existing terms and conditions and ensures that they keep existing accrued rights.

Sub-clause (2) provides that the provisions of the **Local Government Act 1989** dealing with the imposition of surcharges apply to former councillors and staff.

Clause 12 (1) imposes special requirements in relation to certain transactions entered into by the former Council of the City of Melbourne. In the period from 28 September to the time the Bill receives Royal Assent, the Council must not enter into a contract with a value of more than \$25 000, enter into a lease or engage professional services in relation to a new matter.

Sub-clause (2) provides for the Minister to approve any such contract, lease or engagement.

Sub-clauses (3) and (4) provide that if the Council does not comply, then councillors and members of staff can be surcharged in accordance with the provisions of the **Local Government Act 1989**.

Clause 13 makes special transitional arrangements in relation to local laws dealing with the common seal and meetings of the Melbourne City Council.

PART 3—RESTORATION OF ELECTED COUNCIL

Clause 14 (1) specifies the number of wards of the Melbourne City Council, the numbers of councillors to represent each ward and the number of councillors assigned to the Council and to be returned at the first general election.

Sub-clause (2) ensures that any future changes in relation to these matters are made in the normal way.

Sub-clause (3) enables Orders to be made to fix a day for the first election of councillors for the Melbourne City Council and to provide for all other necessary matters relating to the election.

Sub-clause (4) ensures that after the first election has been held changes can be made in the usual way to the electoral wards.

Sub-clause (5) provides that the term of the first elected Council can extend to 3¹/₂ years. Depending on when the first election is held the new Council could otherwise find its term to be only 2¹/₂ years.

Sub-clause (6) provides for the provisions of the **Local Government Act 1989** to otherwise apply to the first election.

Clause 15 amends the **Local Government Act 1989** to confer special voting entitlements on corporations in the respect of elections for the Melbourne City Council. Subject to the usual restrictions which apply where more than one property is owned or occupied, a corporation which occupies or owns rateable land in a ward is to have the right to appoint 2 persons, instead of 1 person, to apply to be enrolled on the voter's roll and vote on behalf of the corporation. Corporations which jointly own or occupy land are also to have the right to appoint two persons. Special provisions are included relating to how a municipal clerk deals with applications from corporations appointing persons to be enrolled.

Clause 16 (1) requires the newly elected councillors to meet within 10 days of the first election behind held.

Sub-clause (2) provides for the Commissioners go out of office at 9 a.m. on the day of the first meeting of the elected Council.

Sub-clause (3) provides a reserve power to enable an Order to be made in relation to the change over from Commissioners to elected councillors.

Clause 17 amends the **Local Government Act 1989** to enable the Lord Mayor of the City of Melbourne to be elected for a 3 year term.

Clause 18 (1) amends the **Local Government Act 1989** to enable the Minister to direct the Melbourne City Council to apply a specified percentage of the revenue it raises in any one financial year to the benefit of a specified part of its district in that year.

Sub-clauses (2)–(5) deal with the enforcement of an Order. In the event of non-compliance, the Council must first obtain the consent of the Minister before declaring general rates and a municipal charge in the following financial year.

PART 4—BOUNDARY CHANGES TO MUNICIPAL DISTRICTS OF SPECIFIED COUNCILS

Clause 19 (1) provides for the necessary adjustments to be made to the boundaries of the municipal districts of the Cities of South Melbourne, Port Melbourne, Fitzroy and Essendon as a result of the re-constitution of the Melbourne City Council. The adjustments are necessary as a result of land being severed from the districts of the Cities of South Melbourne and Port Melbourne and Essendon and included in the district of the Melbourne City Council and as a result of land being severed from the district of the former Council of the City of Melbourne and included in the districts of the Cities of Essendon and Fitzroy.

Sub-clause (2) provides that upon the commencement of the Act, the municipal districts of the Cities of South Melbourne, Port Melbourne, Fitzroy and Essendon are not divided into wards.

Sub-clause (3) provides that in respect of each of those Councils, all existing councillors remain in office until the next election.

Sub-clause (4) ensures that in the future, changes can be made in the usual way to each Council's boundaries.

Sub-clause (5) ensures that despite the changes made, each Council is in all other respects the same body.

Clause 20 (1) provides for Orders to be made, in relation to each specified Council, to fix the day for the next election and to provide for other matters with respect to the holding of the election.

Sub-clause (2) provides for future changes to be made in the normal way.

Sub-clause (3) provides for the **Local Government Act 1989** to otherwise apply to elections.

PART 5—GENERAL PROVISIONS

Clause 21 spells out the general matters which may be dealt with by Order of the Governor in Council to ensure the effective implementation of the restructuring provided for by the Act.

Clause 22 contains general matters relating to the making of Orders.

Clause 23 contains transitional provisions which deal with planning matters.

Clause 24 provides that a ratepayer in an annexed area is to pay to the Council to which the land is annexed, the same rates and charges and the State deficit levy as the ratepayer would have paid had the boundaries remained unchanged. The arrangement is to apply in the 1993–94 financial year only.

Clause 25 provides that in relation to each annexed area the Council of the municipal district from which the annexed area is severed must continue to provide the services and provide the functions in the 1993–1994 financial year as specified by an Order under that section. The relevant Councils can make different arrangements by entering into an agreement.

Clause 26 allows the Registrar of Titles to make consequential amendments to the Registrar.

Clause 27 precludes proceedings being taken in the Supreme Court in respect of actions under the specified sections of this Act.

Clause 28 states that it is the intention of the section to alter section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from dealing with applications under section 27.

Schedule 1 sets out the boundaries of the City of Melbourne.

Schedule 2 sets out the boundaries of the City of South Melbourne.

Schedule 3 sets out the boundaries of the City of Port Melbourne.

Schedule 4 sets out the boundaries of the City of Fitzroy.

Schedule 5 sets out the boundaries of the City of Essendon.