

# Local Government (Further Amendment) Bill

## EXPLANATORY MEMORANDUM

### Background

The purpose of the Act is—

- (a) to enable the Minister to limit the amount of general rates and charges that municipal councils may levy in the next 3 financial years;
- (b) to make the Auditor-General responsible for the auditing of municipal councils;
- (c) to make changes concerning elections for the Melbourne City Council;
- (d) to extend transitional provisions concerning the change of the dates of the municipal financial year;
- (e) to make other miscellaneous changes to the **Local Government Act 1989**.

### PART 1—PRELIMINARY

*Clause 1* sets out the purpose of the Act.

*Clause 2* sets out when different sections of the Act will come into operation. All the provisions come into effect on the day on which the Bill receives Royal Assent with the exception of changes to the auditing arrangements. The new responsibilities of the Auditor-General are to take effect from the beginning of the 1995–1996 financial year.

### PART 2—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1989

*Clause 3* inserts a new Part into the **Local Government Act 1989** called “Part 3A—Minister May Limit Income From Rates and Charges”—

*Section 185A* defines the term “general income” for the purposes of the Part. It is the amount declared by a council to be the amount it intends to raise in respect of a financial year by general rates, municipal charges and service rates and service charges under section 162 of the Act. Special rates and charges under section 163 are not included.

*Section 185B* spells out the powers of the Minister to make directions to control variations in the general income raised by a council in respect of the next three financial years.

A direction can cap an increase or impose a reduction in the amount raised in a year [sub-section (1)].

A direction can be in relation to a particular council or a group of councils [sub-section (3)].

Except in the case of a direction made for the 1995–1996 financial year or to make certain limited changes, a direction must be made at least one month before the beginning of a financial year [sub-sections (4) and (5)].

Provision is made for a direction to specify the general income of a council where such a figure is not otherwise available or is inaccurate as a result of restructuring. An actual figure can be specified [sub-clause (7)] or the way in which the figure is to be calculated spelt out [sub-section (8)]. A direction will also be able to deal with councils in rapidly growing areas or with councils which have not made declarations of rates and charges.

As a result of recent changes to the financial year there is a special provision for calculating the general income for the 1996–1997 financial year [sub-section (9)].

*Section 185c* deals with non-compliance with a direction. Non-compliance does not affect the validity of the rates and charges levied in the year that the target set by the Minister is not reached. The validity of future rates and charges can be affected, however, if the non-compliance continues.

*Clause 4* provides for the Auditor-General to assume responsibility for the audit of councils, corporations wholly owned by a council or councils and trusts for the benefit of a council or councils.

*Sub-clause (1)* amends the **Audit Act 1994** to give the Auditor-General the authority and powers to conduct the audit.

*Sub-clause (2)* modifies the operation of the **Audit Act 1994** so that reports prepared by the Auditor-General on local government bodies are not required to be provided to the Minister for Finance.

*Sub-clause (3)* makes consequential amendments to the **Local Government Act 1989**, including a new requirement that a report prepared by the Auditor-General must be made available to ratepayers.

*Clause 5* inserts new replacement provisions into the **Local Government Act 1989** in relation to the keeping of records, spot audits and the preparation of audit reports on competitive tendering statements.

*Clause 6* enables councils and approved regional bodies to count audit expenses towards the achievement of competitive tendering targets. In the main the Auditor-General will contract with private audit firms to perform council audits under his direction and these contracts will generally be let after a public tendering process.

*Clause 7* contains transitional arrangements in relation to the changes to the audit arrangements. Existing audit appointments will come to an end with respect to the 1995–1996 financial year.

*Clause 8* amends the **Local Government Act 1989** to clarify certain common references in the technical descriptions of local government boundaries.

*Clause 9* inserts a provision for the removal of the Lord Mayor of the Melbourne City Council from office in the event that 6 councillors, i.e. two thirds of the Council, pass a motion declaring the office vacant.

*Clause 10* makes changes to enable the Local Government Board to consist of up to 7 members, rather than being of 7 members, and provides for the qualifications of the 5 members who may be nominated by the Minister.

*Clause 11* provides for a council to set fees for on-street and residential parking and the recovery of impounded vehicles.

### **PART 3—AMENDMENTS RELATING TO MUNICIPAL ELECTIONS**

*Clause 12* removes the obligation on a corporation to appoint a person to represent it at a municipal election. A corporation may make an appointment. Clause 12 also provides for notice of an appointment to be given to a council.

*Clause 13* gives corporations in the City of Melbourne the option of appointing 2 representatives who will, upon notice being given to the Chief Executive Officer, be enrolled unless they are already enrolled or entitled to be enrolled for a ward.

*Clause 14* makes minor consequential amendments.

*Clause 15* substitutes new sections 18 and 18A for the procedure a Chief Executive Officer must follow upon being given notice of a corporation's appointment of a representative. If enrolment is refused, the Chief Executive Officer must write to the person giving reasons for the refusal.

*Section 18A* is a deeming provision which enables the Chief Executive Officer for Melbourne City Council to deem persons to be corporate representatives where a corporation fails to make any, or any valid, appointment. Persons will be deemed in the order provided for in sub-section (2), starting with the principal company secretary.

*Clause 16* makes minor consequential amendments.

*Clause 17* requires the Chief Executive Officer to advertise by public notice the availability of the voters' lists for public inspection.

*Clause 18* inserts a new section 22A requiring the Chief Executive Officer for the Melbourne City Council to write to each person on the Chief Executive Officer's voters' list advising that he or she is enrolled and has a right to object.

*Clause 19* inserts new provisions to reflect changed electoral arrangements for the Melbourne City Council being introduced by clause 23 of the Bill. Five of the nine councillors are to be elected "at large" on a City-wide basis.

*Clause 20* reduces the penalty for failure to vote at a municipal election to \$100. With the exception of Melbourne City Council elections, failure to vote is only an offence for a person who is on the voters' roll in respect of the ward in which their principal place of residence is located.

*Clause 21* inserts a new section 40A to make it compulsory for all persons enrolled on the voters' roll for the City of Melbourne to vote. The penalty for failure to vote is \$100. If one or both of the representatives for a corporation fail to vote, the corporation will be guilty of an offence, the representatives will not.

*Clause 22* provides for a quota preferential system of voting for the Melbourne City Council where two or more councillors are to be elected in respect of the municipal district as a whole.

*Clause 23* amends the **City of Melbourne Act 1993** which provides for 12 councillors to be elected from 4 wards, with each ward represented by 3 councillors. The amendments

reduce the number of councillors to 9 and provide for 1 councillor to represent each of 4 wards and 5 to represent the municipal district as a whole.

**PART 4—AMENDMENT TO THE LOCAL GOVERNMENT  
(AMENDMENT) ACT 1994**

*Clause 24* extends the transitional provisions in the **Local Government (Amendment) Act 1994** for the change of the municipal financial year to a 1 July commencement. New sub-sections are inserted into section 4 of the Act to provide dates for the declaration and payment of rates in respect of the 1995–1996 and 1996–1997 financial years.

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