

Local Government (Miscellaneous Amendment) Bill

EXPLANATORY MEMORANDUM

Background

The purpose of the Act is to make changes concerning—

- (a) mayoral and councillor allowances;
- (b) the conduct of polls and other electoral matters;
- (c) the electoral structure of specified councils; and
- (d) technical matters.

Proposed amendments

- Clause 1 outlines the purposes of the Bill which are to make certain changes to the **Local Government Act 1989** concerning mayoral and councillor allowances, the conduct of polls and other electoral matters, the electoral structure of specified councils and to improve the operation of the **Local Government Act 1989**.
- Clause 2 provides for the Bill to come into operation on the day on which it receives Royal Assent apart from sections 5(1), 6, 15 and 18 which are to come into operation on 1 July 1998 unless earlier proclaimed.
- Clause 3 amends the description of the coastal boundary of a municipal district to refer to the low water mark on the sea coast.
- Clause 4 amends the **Local Government Act 1989** consequent on the provisions of clause 20 relating to the power to change the electoral structure of councils by Order in Council. Where a council has been re-constituted by an Order under the new section 220Q(na), this clause sets out how the councillors representing the whole of the municipal district are to be elected.
- Clause 5 provides for certain electoral matters.

Section 11 (Persons entitled to be enrolled) is amended to provide that the first 2 named non-resident owners or occupiers will be automatically entitled to be enrolled on the voters' roll.

Section 13 (Corporations) is amended to clarify that where a corporation is the owner or occupier of rateable land in a ward, whether jointly or not, that corporation may be represented by one person only at council elections in respect of that ward.

Section 13A (Corporations—City of Melbourne) is amended to clarify that where a corporation is the owner or occupier of land in a ward in the Melbourne City Council, whether jointly or not, that corporation or the joint owners or joint occupiers may appoint 2 people to represent it or them at elections in respect of that ward, but that a corporation may only exercise such right of entitlement once in respect of a ward.

Section 14 (Limitations on right of entitlement) is amended to clarify in sub-section (2) that a person is only entitled to vote once at any election in respect of a ward notwithstanding how many different entitlements the person may have to vote in respect of that ward.

- Clause 6 substitutes the present section 15 (Enrolment for the purposes of sections 11(2) and 11(4)) to provide that where there are more than 2 owners or occupiers of any rateable land who are eligible to be enrolled on the voters' roll, the Chief Executive Officer must enrol without application the 2 whose names appear first on the rate records in the order in which they appear in those records.
- Clause 7 amends subsection (2) of section 18A (Procedure if no representatives appointed under section 13(1)—City of Melbourne) by updating the description of company secretary.
- Clause 8 inserts a new section 21A which provides for the dates, to be specified by Order in Council, by which the Electoral Commissioner must supply to the Chief Executive Officer, and the Chief Executive Officer must prepare, a voters' list in respect of council elections and polls of voters.
- Clause 9 makes amendments to the **Local Government Act 1989** consequent on the provisions of clause 8 relating to the dates for

the preparation of voters' lists. It also provides for certification by the Chief Executive Officer of the voters' roll prior to a poll of voters. Sub-clauses (3) and (4) make amendments consequent on the amendment made by clause 20. Concerning the entitlement to vote at elections for councils re-constituted by an Order made under new section 220Q(na).

- Clause 10 amends section 40A (Compulsory voting—City of Melbourne) to clarify that an infringement notice can be served on a corporation whose representative has failed to vote at a Melbourne City Council election.
- Clause 11 inserts a new section as a consequence of clause 20 relating to the power to change the electoral structure of councils by Order in Council. The new section 40B provides that it is compulsory to vote both for a Councillor to represent a ward and for Councillors to represent the municipal district as a whole at the elections of a council re-constituted by an Order made under new section 220Q(na) and provides for an enforcement procedure. The penalty for failure to vote is 1 penalty unit.
- Clause 12 amends the **Local Government Act 1989** to provide that a poll of voters may be conducted by postal voting only, rather than attendance voting, as is the case for the election of councillors.
- Clause 13 makes a number of housekeeping amendments to the **Local Government Act 1989** to clarify certain provisions concerning polls of voters. Paragraph (a) removes references to polls in sections 35 and 157 of the Act to ensure that they are not used to read down clause 16 of Schedule 3 of the Act. Clause 16 by itself is enough to ensure that a poll is held in respect of the matters referred to in sections 35 and 157 if the requirements set out in clause 16 are met.
- Clause 14 makes changes to the **Local Government Act 1989** concerning mayoral and councillor allowances.

The clause clarifies that a mayor cannot receive both a mayoral and a councillor allowance and that an allowance must be paid in the manner specified in the Order in Council. An Order made pursuant to section 74 (Allowances) may specify that different amounts and limits for allowances are to apply in respect of specified categories of councils. Allowances for the

Lord Mayor and councillors of the Melbourne City Council may be fixed independently of the amounts fixed in relation to other councils.

- Clause 15 provides that a council must approve in principle its financial statements prior to submitting them to its auditor or the Minister and must authorise 2 councillors to certify the final statements once any changes to them have been made.
- Clause 16 repeals section 174 (Land which becomes rateable land or public land) which enables a council to recover up to 5 years of back rates and charges upon land which was previously non rateable becoming rateable.
- Clause 17 amends section 184 (Appeal to County Court) to provide that a person aggrieved by a rate or charge imposed by a council may appeal to the County Court for a review within 60 days of first receiving written notice of the rate or charge.
- Clause 18 provides that a council must not submit its competitive tendering statement to its auditor or the Minister pursuant to section 208G (Councils must prepare a competitive tendering statement) unless it has first given its approval in principle to the statement. The council must authorise 2 councillors to approve the final statement in the prescribed manner after any changes have been made.
- Clause 19 amends the provisions concerning the periodic review of the electoral representation in each council which is divided into wards. Where a council decides not to alter the ward boundaries it must provide reasons for its decision to the Minister and provide to the Minister any information which is requested.
- Clause 20 provides that an Order in Council made on the recommendation of the Minister under section 220Q (Power to make orders) may re-constitute a council so that it consists of both councillors elected for wards and councillors elected for the whole of the municipal district.
- Clause 21 repeals the **Public Authorities Marks Act 1958**.
- Clause 22 amends the **Local Government (Amendment) Act 1996** to provide that a council must approve in principle its performance statement prior to submitting it to its auditor or the Minister and

the council must authorise 2 councillors to certify in the prescribed form the final statement once any changes have been made.

Clause 23 repeals section 213 of the **Building Act 1993**.

Clause 24 makes certain minor technical amendments to the **Local Government Act 1989** as part of statute law revision.

