

Miscellaneous Acts (Omnibus Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 lists the Acts to which various amendments are to be made by this Bill.

Clause 2 sets out the commencement provisions for the several parts of the Bill.

PART 2—BORROWING AND INVESTMENTS POWERS ACT 1987

Clause 3 provides that the **Borrowing and Investments Powers Act 1987** is the Principal Act.

Clause 4 amends definitions contained in section 3 of the Principal Act. This clause broadens the definitions of “financial arrangement”.

Clause 5 amends section 5 of the Principal Act which permits authorities to obtain financial accommodation by way of overdraft in Australia.

Clause 6 amends sections 6, 7, 8 and 9 of the Principal Act which enables authorities to obtain financial accommodation in Australia and overseas. The effect of the clause is to remove the provisions which limited authorities to obtaining financial accommodation for periods of not more than twelve months.

Clause 7 replaces section 11 of the Principal Act which enables authorities to enter into financial arrangements. The clause will enable the Treasurer to provide authorities with a broader range of powers.

Clause 8 makes consequential amendments to section 13 and Schedule 1 of the Principal Act. Schedule 1 sets out the powers of the authorities.

Clause 9 contains transitional provisions saving approvals provided under sections 6, 7, 8, 9 and 11 of the Principal Act.

Clause 10 provides for the consequential amendment of various Acts—

Items 1 and 2 contain amendments to the **Accident Compensation Act 1985** which are consequential to bringing the Victorian WorkCover Authority under the Principal Act.

Item 3 amends the delegation provision contained in the **Construction Industry Long Service Leave Act 1983**.

Item 4 contains the **Docklands Authority Act 1991** to refer to its powers under the Principal Act.

Item 5 contains amendments to the **Parliamentary Salaries and Superannuation Act 1968** which are consequential to bringing the Parliamentary Contributory Superannuation Fund under the Principal Act.

Items 6 and 7 contain amendments to the **Transport Accident Act 1986** which are consequential to bringing the Transport Accident Commission under the Principal Act.

Item 8 makes two amendments to the **Treasury Corporation of Victoria Act 1992**. The first amendment is to section 8 (1) (*I*) enabling Treasury Corporation of Victoria to enter into transactions including financial arrangements to hedge, protect or manage the State's assets or liabilities at the request of the Treasurer. The second amendment broadens the definition of "public authority" under section 36A to include participating authorities approved by the Treasurer.

Item 9 amends the delegation provisions in the **Victorian Funds Management Corporation Act 1984**.

PART 3—BUSINESS NAMES ACT 1962

Clause 11 provides that the Principal Act is the **Business Names Act 1962**.

Clause 12 enables the electronic, as distinct from hand, signature and generation of certificates of registration by the Commissioner for Corporate Affairs.

Clause 13 repeals section 12 (2A) of the Principal Act to ensure notification to the Office of Fair Trading and Business Affairs, in addition to the Australian Securities Commission, of a change of name and/or address of the registered office, of a company which holds a registered business name.

Clause 14 removes references to "managers" of companies in order to remain consistent with changes in the Corporation Law.

Clause 15 inserts a new section 15AA to enable lodgement of a copy signature to be sufficient for the purposes of the Act in circumstances where a copy document is lodged under the Act or the regulations.

Clause 16 inserts a new section 15c to permit the lodgement of documents by facsimile transmission.

Clause 17 makes an amendment consequential to that under clause 4, relating to signatures by the Commissioner for Corporate Affairs.

Clause 18 updates the references to the PERIN procedures under the **Magistrates Court Act 1989**.

Clause 19 amends the current evidentiary provision in section 30 of the Principal Act. It involves a change to the onus of proof by deeming, in the absence of proof to the contrary, persons to be carrying on business under a business name (thereby being in breach of section 5 if the name is not registered) in two circumstances:

- (i) if a name has been displayed on any premises—the persons carrying on business at those premises are deemed to be carrying on business under that name;
- (ii) if a name has been displayed on any document indicating an address or telephone number in connection with a business name the persons carrying on business on the premises at the address, or in whose name the telephone number is connected, are deemed to be carrying on business under that name.

PART 4—CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1961

Clause 20 amends a number of provisions of the **Civil Aviation (Carriers' Liability) Act 1961** of Victoria so that the Act applies as Victorian law not only Part IV of the Commonwealth Civil Aviation (Carriers' Liability) Act 1959 but also Part IV_A (which was inserted by the Transport Legislation Amendment Act (No. 2) 1995 (Cth)). This clause also replaces an outdated reference to the Subordinate Legislation Committee with a reference to the present Scrutiny of Acts and Regulations Committee.

PART 5—CORPORATIONS (VICTORIA) ACT 1990

Clause 21 allows for the winding up of the Companies Liquidation Account which was established by section 428 of the Companies (Victoria) Code, by amending section 57 of the **Corporations (Victoria) Act 1990**. Under the Code unclaimed money from company liquidations was required to remain in the Companies Liquidation Account for 3 months before being transferred to the Consolidated Fund. This amendment has the effect of requiring unclaimed money in the hands of a company liquidator in relation to wind ups commenced before the Corporations Law came into operation to be paid directly into the Consolidated Fund. Transferring unclaimed money directly into the Consolidated Fund avoids administrative accounting costs.

PART 6—EVIDENCE ACT 1958

Clause 22 amends section 130 of the **Evidence Act 1958**. It provides persons acting judicially with the power to include any such terms and conditions as they think fit in any direction that evidence to be given in a legal proceeding be recorded.

Clause 23 (1) amends section 131 of the **Evidence Act 1958** by removing the necessity for evidence to be recorded by licensed persons. Clause 23 (2) repeals sections 132, 132_A and 133. Clause 23 (3) amends section 134 by deleting a reference to licensed shorthand writers. Clause 23 (4) amends section 135 (1) of the Evidence Act by deleting the reference to licensed shorthand writers, and provides that where transcript has been certified as correct by the shorthand writer, or person recording the evidence, or by the person preparing the written transcript, the written transcript must be received by the court as prima facie evidence of anything therein recorded. Clause 23 (5) amends section 135 (2) of the Evidence Act by deleting the reference to licensed shorthand writers. Clause 23 (6) repeals sections 136 and 139 of the Evidence Act. Clause 23 (7) repeals sub-sections (a) and (c) to (g) of section 140 (1) of the Evidence Act, and amends sub-section (b) by inserting the word document which is defined in section 3 of the principal Act as including, among other things, sound tracks and film. Clause 23 (8) amends section 140 (2) of the Evidence Act by deleting the definition of prescribed. Clause 23 (9) repeals section 140 (3) of the Evidence Act.

PART 7—EXHIBITION ACT 1957

Clause 24 repeals the **Exhibition Act 1957** and is consequential on the amendments to the **Museums Act 1983** in Part 17 of this Act.

PART 8—EXTRACTIVE INDUSTRIES (LYSTERFIELD) ACT 1986

Clause 25 inserts five new sections into the **Extractive Industries (Lysterfield) Act 1986**:

Proposed section 8 extends the scope of the lease of land, the extractive industry lease and extractive industry licence relating to the Lysterfield quarry land to provide for the construction of a water storage tank and associated pipelines and works to supply water to nearby residential subdivisions.

Proposed section 9 provides that the construction of a water storage tank and associated pipelines and works on the Lysterfield quarry land is deemed to be a use for which a planning permit could be issued.

Proposed section 10 provides for the operation and effect of the leases, the licence and the planning permit.

Proposed section 11 provides that the Minister may impose terms and conditions on particular sub-leases of the Lysterfield quarry land.

Proposed section 12 provides for the registration of particular sub-leases of the Lysterfield quarry land with the Registrar of Titles.

PART 9—FINANCIAL MANAGEMENT ACT 1994

Clause 26 reinstates the original section 6 of the **Financial Management Act 1994** to enable the Minister for Finance to declare a financial year other than the year ending 30 June for a public body. This power cannot be used if another Act provides for the financial year of a public body.

PART 10—HISTORIC BUILDINGS ACT 1981

Clause 27 amends the definitions as a consequence of the amendments by Parts 16 and 17 of this Act to the **Museums Act 1983** and the **Melbourne Exhibition Centre Act 1994**.

PART 11—INTERPRETATION OF LEGISLATION ACT 1984

Clause 28 amends the **Interpretation of Legislation Act 1984** by providing that reprints printed by the Government Printer for Victoria and reprints printed by the Government Printer for any other Australasian state if the law of that state corresponds with section 54 (2B) of the **Interpretation of Legislation Act 1984** shall be admissible in evidence before all courts and persons acting judicially within Victoria.

PART 12—JURIES ACT 1967

Clause 29 makes an amendment to the **Juries Act 1967** consequential upon the amendments to the **Evidence Act 1958** made by Part 6 of this Act.

PART 13—LIVERY AND AGISTMENT ACT 1958

Clause 30 repeals the **Livery and Agistment Act 1958** and provides that any lien over any cattle, vehicle or harness existing immediately before the repeal of the Act will continue in respect of those cattle or that vehicle or harness.

PART 14—MANAGEMENT AND BUDGET ACT 1983

Clause 31 repeals the **Management and Budget Act 1983** as it is redundant due to the reforms introduced in the **Public Sector Management Act 1992** and the **Financial Management Act 1994**.

Clause 32 provides for the amendment of various Acts set out in Schedule 2 consequent to the repeal of the **Management and Budget Act 1983**. It replaces references to the Director-General of the Department of Management and Budget, Director of Finance and Department of Management and Budget with references to the Secretary to the Department of Treasury and Finance and the Department of Treasury and Finance as appropriate.

PART 15—MARINE ACT 1958

Clause 33 amends certain provisions in the Marine Act relating to offences involving alcohol.

PART 16—MELBOURNE EXHIBITION CENTRE ACT 1994

Clause 34 inserts a definition of “Great Hall”.

Clause 35 expands the functions of the Melbourne Exhibition Centre Trust.

Clause 36 amends the powers of the Trust.

Clause 37 makes a minor amendment to section 38 of the **Melbourne Exhibition Centre Act 1994**.

Clause 38 makes a minor statute law revision amendment.

Clause 39 substitutes a new schedule showing the Melbourne Exhibition Centre land in the **Melbourne Exhibition Centre Act 1994**.

PART 17—MUSEUMS ACT 1983

Clause 40 inserts a definition of Exhibition land.

Clause 41 expands the objectives of the Museum Council.

Clause 42 adds additional functions of the Council.

Clause 43 amends the powers of the Council.

Clause 44 inserts a new section in the **Museums Act 1983** enabling the Museum Council to enter into arrangements with the Melbourne Exhibition Centre Trust in relation to the carrying on of their several powers.

Clause 45 inserts new Divisions 8 and 9 in the **Museums Act 1983** under which The Exhibition Trustees, a body corporate under the **Exhibition Act 1957**, is dissolved.

New section 37 in the **Museums Act 1983** provides that The Exhibition Trustees, a body corporate is dissolved.

New section 38 makes the Council of the Museum the successor in law of the Exhibition Trustees.

New section 39 provides for the transfer of assets and liabilities to the Council of the Museum.

New section 40 revokes the reservation of the Exhibition land.

New section 41 permits the Exhibition land to be used for the purposes of an underground car park or any other use which will not substantially interfere with the continued use of the land for museum and exhibition purposes.

New section 42 enables a lease to be granted for car park or other purposes.

New section 43 permits temporary use of the Carlton Gardens land for purposes connected to museum and exhibition purposes.

New section 44 continues the regulations under the **Exhibition Act 1957** as regulations under the **Museums Act 1983**.

Clause 46 substitutes a new plan of the Exhibition land in the First Schedule to the **Museums Act 1983**.

PART 18—PUBLIC HOLIDAYS ACT 1993

Clause 47 substitutes section 8 (1) of the **Public Holidays Act 1993**. The current section 8 (1) provides that the Minister administering the Act may substitute certain public holidays. The new section 8 (1) will provide substitution provisions in addition to the current provisions. A full day public holiday may be substituted for 2 half-day public holidays and 2 half-day public holidays may be substituted for one full day public holiday.

Clause 48 substitutes section 8 (4) of the **Public Holidays Act 1993**. The amendment will ensure that there is at least a one month notification period in all cases when a non-metropolitan Council substitutes a public holiday.

Clause 49 repeals spent provisions in the **Public Holidays Act 1993**.

Clause 50 substitutes the Schedule to the **Public Holidays Act 1993**. The Schedule lists metropolitan municipal Councils for the purposes of the Act. The substitution of the Schedule is to provide for the re-constituted metropolitan municipal Councils as a result of recent local government restructures.

PART 19—ROAD SAFETY ACT 1986

Clause 51 makes various amendments to the provisions of the **Road Safety Act 1986** in respect of offences involving alcohol.

Clause 52 provides that the amendments made by section 51 do not affect the rights of the parties in certain proceedings.

PART 20—SHOP TRADING ACT 1987

Clause 53 substitutes section 5 (1) (b) and (c) of the **Shop Trading Act 1987**. New sub-section (1) (b) is re-formatted following previous amendment while new sub-section (1) (c) simplifies the procedure for determining a shop closing day in the City of Greater Geelong on the day appointed by the Greater Geelong City Council as a public holiday

Clause 54 substitutes section 5 (2), (3) and (4) of the **Shop Trading Act 1987**. The amendment will provide for the new public holiday substitution provisions under the **Public Holidays Act 1993** by continuing the consistency between those substitution provisions and shop closing days. That is, should a public holiday or half-holiday be substituted under section 8 (1) of the **Public Holidays Act 1993** the shop closing day will also be substituted to the new public holiday.

Clause 55 inserts a new section 29 in the **Shop Trading Act 1987**. The section will provide that a shop in a former metropolitan area which becomes part of a non-metropolitan area as a result of the substitution of the Schedule to the **Public Holidays Act 1993** is deemed to be in the new metropolitan area for the purposes of sections 7 (3) (b) (i) and 7A of the **Shop Trading Act 1987**.

Clause 56 makes a statute law revision amendment to the **Shop Trading Act 1987**.

PART 21—SPORT AND RECREATION ACT 1972

Clause 57 abolishes the two advisory councils to the Minister, namely the State Sports Council and the Community Recreation Council and repeals provisions relating to them in all sections of the **Sport and Recreation Act 1972**.

Clause 58 repeals outdated and spent provisions of the **Sport and Recreation Act 1972**, namely:

- (i) definitions of “Department of Sport and Recreation” and “Director-General”;
- (ii) additional powers of the Minister;
- (iii) delegation powers of the Minister;
- (iv) transitional provisions relating to the National Fitness Council;
- (v) other transitional provisions;
- (vi) the Schedule.

PART 22—TRANSPORT ACT 1983

Clause 59 repeals sections 52 and 53 of the **Transport Act 1983**. It also contains provisions that ensure that those sections and the Melbourne Underground Rail Loop levy do not apply in the current financial year.

Clause 60 makes various amendments to the **Transport Act 1983** in relation to offences involving alcohol.

Clause 61 amends certain references in the Transport Act to medical practitioners.

Clause 62 amends the provisions in the Transport Act relating to tow trucks in respects of persons who may travel as a passenger in a tow truck.

THE SCHEDULES

Schedule 1 contains amendments consequential upon the amendments to the Borrowing and Investment Powers Act contained in Part 2 of this Act.

Schedule 2 contains amendments to various Acts consequential upon the repeal of the **Management and Budget Act 1983**.