

# Melbourne Corporation (Election of Council) Bill 1982

## NOTES ON CLAUSES

### PART I.—PRELIMINARY

*Clause 1* is a clause in the usual form, containing provisions relating to the short title and commencement of the Act.

*Clause 2* is an interpretation provision.

*Clause 3*—

*Sub-clause (1)* provides that the Act will have full force and effect notwithstanding the provisions of sections 74B and 74C of the *Constitution Act 1975* (which relate to the elections of municipal councils).

*Sub-clause (2)* provides that the Act will expire at six a.m. on the day appointed under the *Local Government Act 1958* for the general election of the Melbourne City Council in 1985.

### PART II.—SUBDIVISION OF MUNICIPAL DISTRICT

*Clause 4* provides that there are to be six wards for the City of Melbourne. The boundaries of the wards will be declared by Order in Council under Part II of the *Local Government Act*.

### PART III.—ENTITLEMENT TO VOTE AT ELECTIONS

*Clause 5*—

*Sub-clause (1)* prescribes the entitlement to be enrolled on the voters' roll of a ward. A person will be entitled if he has attained the age of eighteen years and is—

- (a) on the Legislative Assembly roll and has his principal place of residence within a ward;
- (b) is not a natural born or naturalized subject of Her Majesty but has resided in Australia for at least six months continuously, in Victoria for three months and within the City for at least one month preceding the entitlement date for enrolment and has his principal place of residence within a ward;
- (c) owns property within a ward; or
- (d) is liable to be rated in respect of property within a ward.

If there is joint ownership or more than one person liable to be jointly rated in respect of property only one owner and one person liable to be rated may be enrolled. A corporation which owns or is liable to be rated in respect of property may appoint a person to be enrolled and vote on its behalf.

*Clause 6*—A person who is on the Legislative Assembly roll will be enrolled without application. In all other cases enrolment is voluntary and application for enrolment is to be made to the Town Clerk.

*Clause 7* prescribes the procedure for a corporation, joint owners of property or persons liable to be jointly rated in respect of property to appoint persons to be enrolled and vote on their behalf.

*Clause 8*—The Town clerk or any other officer or employee of the Council authorised by him may make enquiries in respect of application for enrolment or the preparation of the voters' list or voters' roll.

#### PART IV.—QUALIFICATION OF COUNCILLORS

*Clause 9*—

*Sub-clause (1)* provides that a person shall be qualified to hold the office of a councillor if he is enrolled on the voters' roll of one of the wards of the City and continues to be so entitled.

*Sub-clause (2)*: A councillor who ceases to have the qualifications set out in the nomination paper shall not be capable of being or continuing to be a councillor.

*Sub-clause (3)* provides that a councillor who before he ceases to hold the qualifications set out in the nomination paper—

- (a) notified the town clerk in writing that he intends to acquire another qualification which will entitle him to be enrolled pursuant to section 5; and
- (b) not later than four o'clock in the afternoon of the thirtieth day after the day on which he notified the town clerk he lodges with the town clerk a statement giving correct particulars of the qualifications by which he has become enrolled or entitled to be enrolled on the voters' roll in respect of any ward in the municipal district—

shall be capable of being and continuing to be a councillor.

*Sub-clause (4)* prescribes conditions under which a person may not be or continue to be a councillor.

If any person holds any office or place of profit under or in the council he may not be or continue to be a councillor (sub-clause 5).

*Clause 10* provides that conviction for certain offences renders a person incapable of being a councillor for seven years after conviction. The clause also allows a person to seek relief from this prohibition.

*Clause 11* requires a councillor to make a declaration before acting as a councillor. If the declaration is not made within three months of election his seat on the Council becomes vacant.

*Clause 12* makes it an offence to act as a councillor if incapacitated under the Act or before taking the declaration referred to in clause 11.

## PART V.—VOTERS' LISTS AND VOTERS' ROLLS

### *Clause 13:*

*Sub-clause (1)* provides that the Chief Electoral Officer shall on or before a specified date supply to the town clerk a list of names of all persons enrolled on the roll of the Legislative Assembly on the entitlement date.

*Sub-clause (2)* requires the town clerk to supply all information necessary to enable the Chief Electoral Officer to prepare the list.

*Clause 14* provides that the Town Clerk shall on or before a specified day prepare a list of all other persons who are to be included on the voters' roll for each ward of the City.

*Clause 15*—The town clerk is to prepare each voters' roll from the two lists referred to in clauses 13 and 14. Each list may be made into a separate roll or the two lists combined into a composite roll. The roll is to be printed not later than three days before a day to be fixed by Order in Council. Public notice is to be given of the places where and the time when each voters' roll may be inspected.

*Clause 16* provides that a voters' roll shall remain in force until a new roll is prepared.

*Clause 17*—The town clerk is to make copies of the voters' roll available to any person who pays the prescribed amount.

*Clause 18* deals with the use of the voters' roll for evidentiary purposes.

*Clauses 19 and 20* deal with errors and omissions in respect of the voters' roll.

*Clause 21* contains offence provisions relating to the voters' roll.

## PART VI.—ELECTION OF COUNCILLORS

*Clause 22*—There is to be a general election of councillors for the Melbourne City Council on a day to be fixed by order in council, which shall be a Saturday.

*Clause 23* provides that there are to be three councillors for each ward—making a Council of eighteen members.

*Clause 24* provides that the Council shall continue in office until the elections of municipal councils are held in August 1985.

*Clause 25* specifies reasons under which the office of a councillor may become vacant.

*Clause 26* provides that if the number of councillors elected for any ward is less than three the vacancy shall be deemed to be an extraordinary vacancy.

*Clauses 27 and 28* provide for the filling of extraordinary vacancies on the Council.

*Clauses 29 to 63* deal with the holding of elections for the Melbourne City Council. The clauses, which generally follow the equivalent provisions in the Local Government Act for the holding of municipal elections, provide as follows:

*Clause 29* provides for the appointment of the town clerk as returning officer for the election and for a deputy returning officer.

*Clauses 30 to 33* deal with nominations of candidates.

*Clause 34* is an offence provision.

*Clause 35* provides for the returning officer to declare candidates to be elected if their number does not exceed the required number of councillors.

*Clause 36 to 38* deal with the appointment of places by the returning officer for the holding of the election.

*Clause 39* provides for the giving of notice for the election.

Polling is to commence at 8 a.m. and close at 6 p.m.

*Clause 40* deals with the retirement of a person as a candidate.

*Clause 41* provides an extraordinary election shall not be held if the vacancy occurs two months or less from the day appointed for the general election of the council in 1985.

*Clause 42* provides for the appointment of presiding officers at each place appointed for the election.

*Clause 44* provides for the appointment of scrutineers. A candidate may not act as a scrutineer for himself or on behalf of another candidate.

*Clauses 44 and 45* deal with the powers and authority of the presiding officer.

*Clauses 46 to 48* deal with voting at the elections.

*Clauses 49 to 51* deal with the counting of the ballot-papers and the declaration of the result of the election.

*Clause 52* provides that section 148 of the *Local Government Act 1958* (which permits a person whose name was on the voters' list but was omitted from the municipal roll in error to vote) shall not apply.

*Clause 53* provides that voting shall be compulsory for any person whose name is on the voters' roll.

*Clauses 54 to 56* deal with matters arising from the election and include offence provisions.

*Clause 57* provides for the return of a candidate's deposit in certain cases.

*Clauses 58 to 63* deal with the recount of votes by a stipendiary magistrate.

#### PART VIII.—ELECTION AND PRIVILEGES OF LORD MAYOR

*Clause 64*—There is to be a Lord Mayor who is to be elected annually by the members of the council.

*Clause 65* sets out the procedure for holding the election for the office of Lord Mayor.

*Clause 66* provides that the Lord Mayor shall take precedence at all municipal proceedings within the municipal district.

*Clause 67* deals with the vacation of the office of Lord Mayor.

*Clause 68* provides that the Council may pay an annual allowance to the Lord Mayor not exceeding 3 per cent of the revenue received by the Council from general and extra rates.

*Clause 69* deals with the situations under which there is no Lord Mayor.

#### PART VIII.—OUSTER FROM OFFICE OF LORD MAYOR OR COUNCILLOR

*Clauses 70 to 72*—These clauses deal with the procedure for the ouster from office of the Lord Mayor or any councillor.

#### PART IX.—RESTORATION OF ELECTED COUNCIL

*Clause 73*—

*Sub-clause (1)* provides that the Town Clerk is to call the first meeting of the Council for 7.30 p.m. on the day that is the third day following the declaration of the result of the general election.

*Sub-clause (2)*. At that time—

- (a) the Commissioners appointed pursuant to section 3 of the *Local Government (City of Melbourne) Act 1981* shall go out of office;
- (b) the councillors elected shall assume office as councillors of the City of Melbourne; and
- (c) the *Local Government (City of Melbourne) Act 1981* shall be repealed.

*Clause 74—*

*Sub-clause (1)* provides that notwithstanding the repeal of the *Local Government (City of Melbourne) Act 1981* the validity of any Act, matter or thing performed by the Commissioners or the exercise or discharge of any power, duty or functions by the Commissioners on behalf of the council of the City of Melbourne shall not be effected.

*Sub-clause (2)*. Any expenditure out of the town fund by the Commissioners for the purposes of performing their duties under section 9 and 10 of that Act is validated.

*Clause 75* provides for the payment of expenses.

PART X.—REGULATIONS

*Clause 76* provides for the making of regulations.

PART XI.—MISCELLANEOUS AMENDMENTS

*Clauses 77 and 78* provide for a number of miscellaneous amendments to the *Melbourne and Geelong Corporation Act 1938* and the *Local Government Act 1958*.