

Royal Botanic Gardens and Victorian Conservation Trust (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Bill.

Clause 2 provides for commencement of the Bill.

PART 2—ROYAL BOTANIC GARDENS ACT 1991

Division 1—Amendments to the Royal Botanic Gardens Act 1991

Clause 3 specifies the **Royal Botanic Gardens Act 1991** as the Principal Act in Part 2 of the Bill.

Clause 4 amends section 3 (1) of the Act to include a person acting as Director in the definition of Director of the Royal Botanic Gardens.

Clause 5 amends section 11 of the Act to include the provision of specialist advice and services on horticulture, arboriculture, landscaping and maintenance of gardens to public bodies and, if the Minister so approves, to corporations as a function of the Royal Botanic Gardens Board.

Clause 6 amends section 14 (*m*) of the Act to provide that the Royal Botanic Gardens board cannot operate a retail nursery.

Clause 7 amends section 24 of the Act to increase the maximum period for which the Royal Botanic Board may grant leases in relation to the botanic gardens or managed land from 15 years to 21 years, and enables the Board to lease residences in the botanic gardens for residential purposes.

Clause 8 inserts a new section 41A enabling the Board to appoint an acting Director for a temporary period when the Director is absent or a vacancy exists.

Clause 9 inserts a new section 50 (*d*) in the Act to enable authorised officers appointed under the **Conservation, Forests and Lands Act 1987** to take legal proceedings under the **Royal Gardens Act 1991** and the regulations made under that Act.

Clause 10 inserts a new section 50A in the Act to prohibit the taking, destruction or damage of any item in the State botanical collection or of any flora or fauna in the botanic gardens.

Clause 11 amends section 51 (1) (*a*) (*iv*) of the Act to correct a typographical error and substitutes a new 51 (2) (*g*) for 51 (2) (*g*) and 51 (2) (*h*) to reduce the maximum penalty for offences under the regulations for the botanic gardens from 50 penalty units to 20 penalty units.

Division 2—Amendment of Conservation, Forests and Lands Act 1987

Clause 12 provides a consequential amendment to the **Conservation, Forests and Lands Act 1987** to enable staff of the Royal Botanic Gardens to be appointed as authorised officers for the purpose of issuing infringement notices under Part 9 of that Act.

PART 3—VICTORIAN CONSERVATION TRUST ACT 1972

Division 1—Amendments to the Victorian Conservation Trust Act 1972

Clause 13 specifies the **Victorian Conservation Trust Act 1972** as the Principal Act in Part 3 of the Bill.

Clause 14 amends section 2 of the Act to alter the name of the Victorian Conservation Trust to “Trust for Nature (Victoria)”.

Clause 15 amends section 3 of the Act to provide that the particular powers conferred on the Trust do not limit its general power to do all things necessary and convenient in carrying out its objects. The clause also enables the Trust to pay remuneration to the chairman, deputy chairman or trustees, and makes minor changes to terminology in the Act.

Clause 16 amends section 3A of the Act to remove the requirement to advertise proposed covenants or variations or releases of covenants in the Government Gazette and local newspapers, and makes minor changes to terminology in the Act.

Clause 17 amends section 4 of the Act to provide for an increase in the number of trustees from 9 to 10, and also amends section 5 (1) to reduce the term of appointment for trustees from 5 years to a maximum of 4 years.

Clause 18 inserts a new section 5A into the Act to provide that a trustee is not personally liable for anything done or omitted to be done in good faith in the exercise of the Trust’s powers and functions.

Clause 19 amends section 7 (2) of the act to increase the number of trustees constituting a quorum from 5 to 6, and amends section 8 (1) to alter the title of the Secretary of the Trust to “Director”.

Division 2—Consequential amendments to other Acts and transitional provisions

Clause 20 provides for consequential amendments to the **Conservation, Forests and Lands Act 1987** to replace references to the Victorian Conservation Trust with “Trust for Nature (Victoria)”.

Clause 21 provides for consequential amendments to the **National Parks Act 1975** to replace references to the Victorian Conservation Trust with “Trust for Nature (Victoria)”.

Clause 22 provides transitional arrangements as a consequence of amendments made by Division 1 of Part 3 and deems the Trust to be the same body despite the changes to its name and structure, and that no matter or thing is affected by those changes. The clause

provides that any reference to the Trust in any legislation or document is deemed to be a reference to the “Trust for Nature (Victoria)”, and that the existing trustees will continue to hold office with no change to the terms and conditions of their appointment.

