

Victorian Managed Insurance Authority Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act.
- Clause 2 provides for the commencement of the Act.
- Clause 3 sets out definitions and in particular defines "department" and "participating body" to more clearly identify those entities that can be embraced by the VMIA.
- Clause 4 empowers the Minister by notice published in the government gazette to declare a statutory authority or body corporate to be a participating body.

PART 2—VICTORIAN MANAGED INSURANCE AUTHORITY

- Clause 5 establishes the "Victorian Managed Insurance Authority" (the "Authority") as a body corporate.
- Clause 6 states that the functions of the Authority.
- Clause 7 sets out the powers the Authority for the purpose of performing its functions.
- Clause 8 states that the Authority is, in the exercise of its powers and performance of its functions, subject to the general direction and control of the Minister.
- Clause 9 empowers the Authority to delegate by instrument under its official seal.
- Clause 10 states that there shall be a board of directors of the Authority responsible for the management of the affairs of the Authority.
- Clause 11 states that the Board shall consist of between 6 to 8 directors appointed by the Governor in Council on the recommendation of the Minister.
- Clause 12 sets out the terms and conditions of appointment of a director.
- Clause 13 provides for vacancies, resignations and the removal from office of directors.

- Clause 14 empowers the Governor in Council to make acting appointments to the Board.
- Clause 15 sets out details relating to proceedings of the Board.
- Clause 16 provides for resolutions without meetings if a majority of Directors for the time being sign to the effect that they are in favour of the resolution and each director is immediately advised and given a copy of the terms of the resolution.
- Clause 17 states that decisions of the Board are not invalid merely because of any irregularity in the appointment of a director or a vacancy in the membership of the Board.
- Clause 18 states that a director must disclose any direct or indirect pecuniary interest in a matter being considered by the Board. A director is not entitled to vote on the matter in which he or she has any direct or indirect pecuniary interest.
- Clause 19 states that the Board must submit a strategic plan each year to the Minister for approval for its operations for the next 3 years.
- Clause 20 states that the Board must provide periodic reports, at such times, as the Minister determines, about the operations of the Authority containing such information as the Minister requires.
- Clause 21 states that the Board may appoint or engage a chief executive officer and such other officers and employees as are necessary for the performance of its functions on terms and conditions determined by the Board.
- Clause 22 states that a person who is or has been a director or employee at the Authority, must not make improper use of any information acquired. The penalty for contravening this section is 50 penalty units.

PART 3—OPERATIONS OF THE AUTHORITY

- Clause 23 states that each department and participating body must—
maintain a register of assets; and
develop, implement and keep under review a risk management strategy.
- Clause 24 states that each department and participating body, unless exempted by the Minister, must arrange its insurance with the Authority and pay such premiums as are determined by the Authority with the approval of the Minister.

- Clause 25 empowers the Authority to provide indemnities to officers of statutory authorities and State bodies.
- Clause 26 states that the Authority may obtain financial accommodation subject to and in accordance with the powers conferred on it by the **Borrowing and Investment Powers Act 1987** and that it may invest money of the Authority in accordance with the powers conferred on it by that Act.
- Clause 27 states that the Government of Victoria will guarantee amounts payable by the Authority as a result of or in connection with the liabilities of the Authority. The Authority must in respect of this guarantee pay to the Treasurer for payment into the Consolidated Fund such amount as the Treasurer after consultation with the Authority determines.
- Clause 28 states that any sums required by the Treasurer in fulfilling any liability arising under a guarantee by the Government of Victoria shall be paid out of the Consolidated Fund and that any sums received or recovered shall be paid into the Consolidated Fund.
- Clause 29 states that a guarantee has effect and may be enforced as if the guarantee were a contract made on behalf of the Crown and section 23(1)(a) of the **Crown Proceedings Act 1958** applies accordingly.

PART 4—REGULATIONS

- Clause 30 empowers the Governor in Council to make regulations.

PART 5—TRANSITIONAL

- Clause 31 states that the amount standing to the credit of the trust account in the Public Account called the Managed Insurance Fund shall be paid to the Authority and that the rights, obligations and liabilities of the State existing immediately before the commencement of this section under the agreements published in the Government Gazette become, on that commencement, rights, obligations and liabilities of the Authority.
- Clause 32 states that the rights, obligations and liabilities of the Treasurer and the State existing immediately before the commencement of this section under the Deed of Indemnity dated 5 July 1995 between the Treasurer and the eligible directors within the meaning of that deed become, on that commencement, rights, obligations and liabilities of the Authority.

- Clause 33 states that all property and rights of SIO ("State Insurance Office") vest in the Authority and all liabilities of SIO become liabilities of the Authority and the Authority becomes the successor in law of SIO and SIO ceases to exist.
- Clause 34 states that each SIO instrument continues to have effect according to its tenor as if reference in the instrument to SIO were a reference to the Authority.
- Clause 35 states that where proceedings (including arbitration proceedings) to which the SIO was a party were pending or existing in any court or tribunal, then the Authority is substituted for SIO as a party to the proceedings and has the same rights in the proceedings as SIO had.
- Clause 36 amends Schedule 1 to the **Borrowing and Investment Powers Act 1987** by inserting Victorian Managed Insurance Authority as item 21A.