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VICTORIA

Constitution (Local Government) Act 1983

No. 9870

An Act to amend Part IIA. of the *Constitution Act 1975* with respect to Municipal Council Elections, to amend the *Melbourne Corporation (Election of Council) Act 1982* and for other purposes.

[Assented to 27 April 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Constitution (Local Government) Act 1983*, Short title.

(2) In this Act the *Constitution Act 1975* is referred to as the Principal Act.

Principal Act
No. 8750,
Reprinted to
No. 9468,
Subsequently
amended by
Nos. 9576,
9695, 9721, 9730,
9765 and 9773.

(3) This Act shall come into operation on the day on which it receives the Royal Assent.

Commence-
ment.

2. For

No. 8750.
New Ss. 74 AB,
74B.

2. For section 74B of the Principal Act there shall be substituted the following sections:

Interpretations.

'74AB. (1) In sections 74B and 74C, unless inconsistent with the context or subject-matter—

"Corporation."

"Corporation" includes—

- (a) any body corporate, whether formed or incorporated within or outside the State of Victoria;
- (b) any public statutory corporation constituted by or under any law of the State of Victoria, any other State or Territory of the Commonwealth or the Commonwealth; and
- (c) any incorporated association within the meaning of the *Associations Incorporation Act 1981*—

but does not include a municipal council or any other body incorporated or constituted by or under the *Local Government Act 1958*.

"Councillor."

"Councillor" means a person who holds the office of member of a municipal council.

"Elector."

"Elector" has the same meaning as in section 104 (1) of *The Constitution Act Amendment Act 1958*.

"Entitlement date."

"Entitlement date" means a date fixed by Order in Council for the purposes of section 74B.

"Joint owners."

"Joint owners" includes joint tenants and tenants in common.

"Municipal council."

"Municipal council" includes the municipal council of the city of Melbourne and of the city of Geelong.

"Municipal district" and "Municipality".

"Municipal district" and "Municipality" have the same respective meanings as in section 3 (2) (a) of the *Local Government Act 1958*.

"Order in Council."

"Order in Council" means an Order made by the Governor with the advice of the Executive Council and published in the *Government Gazette*.

"Person."

"Person" means a person who has attained the age of 18 years but does not include—

- (a) a corporation; or
- (b) a municipal council or any other body incorporated or constituted by or under the *Local Government Act 1958*.

"Rateable property."

"Rateable property" has the same meaning as in Division 1 of Part X. of the *Local Government Act 1958*.

"Riding"

“Riding” and “Ward” have the same respective meanings as in section 3 (2) (c) of the *Local Government Act 1958* but where a municipal district is not subdivided a reference to “Riding” or “Ward” shall be deemed to be a reference to the municipal district.

“Riding”
and “Ward”.

“Voters’ roll or rolls” has the same meaning as in section 3 (1) of the *Local Government Act 1958*.

“Voters’ roll
or rolls.”

(2) An Order in Council made for the purposes of section 74B may by like Order in Council be amended, varied or revoked.

74B. (1) A person who on the entitlement date—

Enrolment
for Municipal
Elections.

(a) would be an elector in respect of an address in a riding or ward if a roll of electors for the Legislative Assembly was prepared, shall be entitled to have his name enrolled on the voters’ roll or rolls in respect of that address;

(b) is not a person referred to in paragraph (a) and who is—
(i) the owner of any rateable property whether solely or jointly with any other person or persons ; or
(ii) the occupier of any rateable property whether solely or jointly with any other person or persons—

shall, subject to sub-section (2) or (3), be entitled to have his name enrolled on the voters’ roll or rolls in respect of that rateable property; or

(c) is not a person whose name is enrolled pursuant to paragraph (a) or (b) and is a person whose principal place of residence has been in Australia for at least six months continuously and in Victoria for at least three months and in the municipal district for at least one month immediately preceding the date of the application for enrolment, shall be entitled to apply to have his name enrolled on the voters’ roll or rolls in respect of his principal place of residence in the municipal district.

(2) For the purpose of sub-section (1) (b) (i) not more than one joint owner shall be entitled to have his name enrolled on the voters’ roll or rolls in respect of any one rateable property.

(3) For the purposes of sub-section (1) (b) (ii) not more than one joint occupier shall be entitled to have his name enrolled on the voters’ roll or rolls in respect of any one rateable property.

(4) Where on the entitlement date—

(a) a corporation is the owner or occupier of any rateable property in a riding or ward; or

(b) corporations are joint owners or joint occupiers of any rateable property in a riding or ward—

the corporation or corporations may appoint a person to represent the corporation or corporations (as the case may be)

and

and shall be entitled to have the name of that person enrolled on the voters' roll or rolls in respect of that rateable property.

(5) Where on the entitlement date—

(a) the joint owners or joint occupiers of any rateable property in a riding or ward consist of a combination of persons and corporations (of at least one person and one corporation); and

(b) at least one of those persons or corporations does not have any right of entitlement pursuant to sub-section (1) or (4)—

they may appoint a person to represent them and they shall be entitled to have the name of that person enrolled on the voters' roll or rolls in respect of that rateable property.

(6) A person or corporation shall not be entitled to elect which right of entitlement conferred by sub-section (1) (a), (1) (b), (1) (c), (4) or (5) to exercise.

(7) Where on the entitlement date the same joint owners or the same joint occupiers own or occupy more than one rateable property in a riding or ward those joint owners or joint occupiers may exercise a right of entitlement conferred by sub-section (1), (4) or (5) in respect of only one of those rateable properties.

(8) Any entitlement to enrolment or to appoint a person for the purposes of enrolment shall be subject to compliance with any law relating to enrolment for and voting at elections for municipal councils.

(9) Subject to this section, the Parliament may make such laws as it deems necessary or expedient for or with respect to enrolment for and voting at elections for municipal councils.

3. Section 74C of the Principal Act shall be amended as follows:

(a) For sub-section (1) there shall be substituted the following sub-section:

“(1) A person shall be qualified to be a councillor if pursuant to the provisions of section 74B—

(a) in the case of an annual election or a general election, he is on the entitlement date; and

(b) in the case of an extraordinary election, he has during the period commencing after the entitlement date and ending three months prior to the day on which that election is to be held, become entitled to be—

enrolled on the voters' roll or rolls in respect of any riding or ward in the municipal district and continues to be entitled to be enrolled.”;

(b) For

- (b) For sub-section (3) there shall be substituted the following sub-section:

“(3) Every councillor who ceases to have the qualification specified in the nomination paper nominating him as a candidate for the office of councillor shall not be capable of continuing to be a councillor unless not later than 30 days after the day on which he ceases to have that qualification he lodges with the municipal clerk a written statement giving correct particulars of the qualification which entitles him to continue to be a councillor.”;

- (c) In sub-section (4) for paragraph (e) there shall be substituted the following paragraph:

“(e) who is not a person referred to in section 48 (1)(a);”;

- (d) In sub-section (5) for the word “member” there shall be substituted the word “councillor”; and

- (e) In sub-section (6) the expression “(not being an offence that is of the kind, and is committed in the circumstances, referred to in paragraph (c) of sub-section (4))” shall be repealed.

4. Sections 3 (1), 5 and 9 of the *Melbourne Corporation (Election of Council) Act 1982* shall be repealed. Amendment of No. 9763.

5. (1) The provisions of Part IIA. of the Principal Act as amended by this Act shall apply— Application of provisions.

- (a) in the case of a municipal council other than the municipal council of the city of Melbourne, to and for the purposes of enabling the holding of—

(i) the annual election in 1983 and any subsequent annual election;

(ii) any election to fill an extraordinary vacancy required to be held at any time after the annual election in 1983;

(iii) any poll of voters required to be held for the purposes of the provisions of the *Local Government Act 1958* at any time after the annual election in 1983; and

(iv) any first election required to be held on or after the commencement of this Act; and

- (b) in the case of the municipal council of the city of Melbourne, to and for the purposes of enabling the holding of—

(i) any election to fill an extraordinary vacancy;

(ii) any poll of voters required to be held for the purposes of the provisions of the *Local Government Act 1958*; and

(iii) any

(iii) any general election—

required to be held on or after the commencement of this Act.

(2) The provisions of Part IIA. of the Principal Act as in force before the commencement of this Act shall continue to apply in the case of a municipal council other than the municipal council of the city of Melbourne to and for the purposes of enabling the holding of—

(a) any election to fill an extraordinary vacancy required to be held at any time before the annual election in 1983; and

(b) any poll of voters required to be held for the purposes of the *Local Government Act 1958* at any time before the annual election in 1983.

(3) The provisions of Part IIA. of the Principal Act as in force before the commencement of this Act shall continue to apply in respect of a person elected before the annual election in 1983 to be a councillor of a municipal council other than the municipal council of the city of Melbourne until pursuant to the provisions of the *Local Government Act 1958*—

(a) an annual election is required to be held in respect of the office of councillor held by that person; or

(b) the office of councillor held by that person becomes vacant at any time after the annual election in 1983.

(4) The repeal of sections 3 (1), 5 and 9 of the *Melbourne Corporation (Election of Council) Act 1982* shall not affect the qualification for the office of councillor of a person elected at the general election in 1982 to be a councillor of the municipal council of the city of Melbourne who was immediately before the repeal of those sections qualified to hold that office and would have continued to be so qualified if those sections had not been repealed.

(5) For the purposes of this section, unless inconsistent with the context or subject-matter, words and expressions used in this section shall as the case may require be given the same meaning as those words and expressions are given pursuant to Part IIA. of the Principal Act, the *Local Government Act 1958* and the *Melbourne Corporation (Election of Council) Act 1982*.