

**Legislative Council Subcommittee on  
West Kowloon Cultural District Development**

**Response to questions raised and information requested by members  
at the meeting on 14 February 2008**

The Administration's response to the questions raised and the information requested by members of the Subcommittee at the meeting on 14 February 2008 is set out below —

**(i) The Administration is requested to provide information to compare the functions, powers, governing structure (especially composition and appointment mechanism), mode of operation, funding arrangements, consultation mechanism, procedures and practices of proceedings, accountability measures, safeguards of public interest etc. of the proposed West Kowloon Cultural District Authority with those of comparable local and overseas statutory bodies.**

**Administration's response**

A table comparing the proposed West Kowloon Cultural District Authority (WKCDA) with comparable local statutory bodies is at **Annex A**, whereas the comparison with comparable overseas statutory bodies is set out at the table at **Annex B**<sup>1</sup>.

**(ii) The Administration is requested to explicate the detailed arrangements regarding the ownership of future donated items to the M+ and the Interim M+, in particular how the arrangements can provide assurance to donors of private collections about the possible transfer of ownership to a third party.**

**Administration's response**

M+ will be one of the core arts and cultural facilities under the purview of the WKCDA. As such, the ownership of M+'s collections, whether they are obtained through donation, acquisition or any other means should rest with the WKCDA—a statutory organization which is also a public body under the Prevention of Bribery Ordinance, Cap. 201.

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<sup>1</sup> The table at Annex B was prepared based on legislation obtained from internet websites. While we have made our best endeavour to ascertain that the legislation is most updated, we cannot assure that it represents the most up-to-date position. Only English version is provided as there is no Chinese version of the overseas legislation referred to in Annex B. The relevant overseas legislation is provided at Enclosures to Annex B.

In order to ensure proper protection of the collections of M+, when establishing M+ and its governing structure, the WKCDA may, through the making of by-laws (which are subject to the approval of the Legislative Council), deal with the ownership of the collections of M+, including those obtained through donations, and formulate rules and procedures relating to the acceptance, donation or transfer of collections with reference to internationally recognized codes of ethics for museums.

The ownership and treatment for the collections of both the M+ and the interim M+ should be the same, as the management of both of them would be overseen by the WKCDA through appropriate arrangements.

**(iii) The Administration should specify in the legislation that a Board member who is not a public officer may not serve as such a member continuously for more than 6 years.**

#### **Administration's response**

As with appointments to all other statutory boards and committees, the Government will consider appointments of non-public officer members to the WKCDA Board primarily on the merit of the individuals concerned, having regard to their ability, expertise, experience, integrity and commitment to public service. As the WKCD project is a long-term cultural project that will span over a long period of time, individuals with different backgrounds and expertise are required to serve on the Board at different stages of the development and operation of the WKCD. At the same time, we also need to take into account the need to ensure continuity and consistency in the Board's operations. In line with our existing administrative guidelines on appointment of non-official members to advisory and statutory bodies, a non-public officer Board member should not serve on the Board of the WKCDA in any one capacity continuously for more than 6 years. We would abide by this rule as far as practicable. We therefore consider it not necessary to specify in the legislation that a non-public officer Board member may not serve continuously for more than 6 years.

**Home Affairs Bureau  
March 2008**

**Comparison between the proposed West Kowloon Cultural District Authority and other comparable statutory bodies in Hong Kong**

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
<b>Major Functions</b>	<ul style="list-style-type: none"> <li>Major functions are to-               <ul style="list-style-type: none"> <li>(a) prepare and amend development plan, and submit such plan to the Town Planning Board for its consideration;</li> <li>(b) to develop the leased area in accordance with the approved development plan;</li> <li>(c) to provide, operate, manage, maintain arts and cultural facilities, related facilities or ancillary facilities;</li> <li>(d) to advocate, promote, organize, sponsor, encourage and provide for the</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Major functions are to provide, operate, develop and maintain Hong Kong's airport at Chek Lap Kok in accordance with the Ordinance, so as to maintain Hong Kong's status as a centre of international and regional aviation.</li> <li>The Authority may also engage in or carry on such airport-related activities as the Chief Executive may, after consultation with the Authority, permit or assign to it by order published in the Gazette.</li> <li><b>(c.f. s.5 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>Major functions are to-               <ul style="list-style-type: none"> <li>(a) improve the standard of housing and the built environment of Hong Kong by undertaking, encouraging, promoting and facilitating urban renewal;</li> <li>(b) improve the standard of housing and the built environment of Hong Kong and the layout of built-up areas by replacing old and dilapidated areas with new development which is properly planned and, where appropriate, provided with</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Major functions are to-               <ul style="list-style-type: none"> <li>(a) facilitate the research and development and application of technologies in manufacturing and service industries in Hong Kong;</li> <li>(b) support the development, transfer and use of new or advanced technologies in Hong Kong;</li> <li>(c) establish or develop any premises where activities related to the purposes prescribed above;</li> <li>(d) to engage in such activities or to perform such functions as the Chief Executive</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Major functions are to-               <ul style="list-style-type: none"> <li>(a) plan, promote and support the broad development of the arts and to develop and improve the participation and education in the arts, with a view to improving the quality of life of the whole community;</li> <li>(b) to formulate and implement strategy for the development of the arts;</li> <li>(c) to uphold the principle of, and encourage, freedom of artistic expression;</li> <li>(d) to encourage excellence in the arts;</li> <li>(e) to encourage</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Authority shall exercise its powers and discharge its duties under this Ordinance so as to secure the provision of housing and such amenities ancillary thereto as the Authority thinks fit for such kinds or classes of persons as the Authority may, subject to the approval of the Chief Executive, determine.</li> <li><b>(c.f. s. 4(1) of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>Major functions are to-               <ul style="list-style-type: none"> <li>(a) manage and control public hospitals in accordance with the this Ordinance and the relevant agreements;</li> <li>(b) advise of the needs of the public for hospital services and of the resources required to meet those needs;</li> <li>(c) manage and develop the public hospitals system in ways which are conducive to achieving the objectives of using resources efficiently, improving the</li> </ul> </li> </ul>

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	<p>appreciation of and participation in arts and culture;</p> <p>(e) to promote, exhibit and display the arts;</p> <p>(f) to initiate and support the creation, composition, production, learning and practising of the arts;</p> <p>(g) to perform such other functions as are conferred or imposed on the Authority by or under the Ordinance or any other Ordinance.</p> <p>• (c.f. s. 4 of the Bill)</p>		<p>adequate transport and other infrastructure and community facilities;</p> <p>(c) replace old and dilapidated areas with new development;</p> <p>(d) achieve better utilization of land in the dilapidated areas of the built environment of Hong Kong and to make land available to meet various development needs;</p> <p>(e) prevent the decay of the built environment of Hong Kong by promoting the maintenance and improvement of individual buildings as regards their structural</p>	<p>in Council may, after consultation with the Corporation, permit or assign to it by order published in the Gazette.</p> <p>• (c.f. s.6 of the Ordinance)</p>	<p>interest in the arts within the formal education system as well as through the extracurricular system;</p> <p>(f) to strive for the creation of an environment conducive to ensuring that all persons in Hong Kong have the opportunity to enjoy the arts and to advise the Government on the policies of the arts.</p> <p>• (c.f. s. 4 of the Ordinance)</p>		<p>efficiency of hospital services and improving the environment in public hospitals;</p> <p>(d) recommend to the Secretary for Food and Health appropriate policies on fees for the use of hospital services by the public.</p> <p>• (c.f. s. 4 of the Ordinance)</p>

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			stability, integrity of external finishes and fire safety as well as the improvement of the physical appearance and conditions of that built environment; (f) preserve buildings, sites and structures of historical, cultural or architectural interest; and (g) engage in such other activities as the Chief Executive may, after consultation with the Authority, permit or assign to it by order published in the Gazette. • (c.f. s. 5 of the Ordinance)				
<b>Major General</b>	• Its major general	• Its major general	• Its major general	• Its major general	• Its major general	• Its major general	• Its major powers

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
<b>Powers</b>	<p>powers include-</p> <p>(a) acquire, hold, lease or hire any kind of property, whether movable or immovable;</p> <p>(b) sell, surrender or otherwise dispose of any kind of movable or immovable property;</p> <p>(c) enter into, assign or accept the assignment of any contract or obligation;</p> <p>(d) apply for and receive any grant;</p> <p>(e) receive gifts, donations or sponsorship, and act as trustee of moneys or other properties vested in it on trust;</p> <p>(f) sponsor or provide financial support to facilitate the organization of activities relating to arts and</p>	<p>powers include-</p> <p>(a) acquire, hold and dispose of all kinds of property including land;</p> <p>(b) grant leases of land;</p> <p>(c) make a contract or other agreement;</p> <p>(d) improve, develop or alter any land held by it;</p> <p>(e) engage in or carry on any airport-related activity;</p> <p>(f) carry out or execute works; and</p> <p>(g) determine the amount of charges and fees.</p> <p>• <b>(c.f. s. 7 of the Ordinance)</b></p>	<p>powers include-</p> <p>(a) enter into contracts;</p> <p>(b) prepare draft corporate plans and draft business plans for the operation of the Authority;</p> <p>(c) lease or purchase land for the purpose of either undertaking development, providing accommodation for the Authority, or for providing residential accommodation for persons displaced;</p> <p>(d) implement projects;</p> <p>(e) alter, construct, demolish, maintain, repair, preserve or restore any building, premises or structure ancillary thereto;</p> <p>(f) manage any</p>	<p>powers include-</p> <p>(a) purchase, hire or hold, sell, let or otherwise dispose of property of any description;</p> <p>(b) build, rebuild or demolish buildings and other facilities;</p> <p>(c) lay out land in the specified premises as provided in the land grant or lease</p> <p>(d) sell or let land and other facilities in the specified premises;</p> <p>(e) manage any buildings and other facilities in specified premises;</p> <p>(f) enter into contracts or other agreements;</p> <p>(g) engage persons;</p> <p>(h) determine the services and facilities to be</p>	<p>powers include-</p> <p>(a) prepare, promulgate and implement proposals for the planning, development, promotion, support of the arts and for advancing and improving the knowledge, practice, appreciation, accessibility and informed criticism of the arts;</p> <p>(b) carry out or support other persons to carry out research;</p> <p>(c) maintain appropriate liaison and consultation with Government, schools, district associations, etc.</p> <p>(d) receive grants from public funds, and accept and solicit</p>	<p>powers include-</p> <p>(a) to acquire and hold property of any description and, subject to the terms and conditions upon which the same is held, to dispose of any such property;</p> <p>(b) to prepare and execute proposals, plans and projects for the construction, alteration, enlargement or improvement of buildings;</p> <p>(c) to construct new buildings for the provision of the housing and to acquire or demolish houses or buildings or temporary buildings for this purpose;</p> <p>(d) to manage any housing and to charge fees for its services in</p>	<p>include-</p> <p>(a) for the provision of hospital services, enter into and carry out, any agreement with the Government or any other person for the management and control by the Authority of any property held or managed by the Government or the person for the performance of any function of the Authority, and dispose of it;</p> <p>(b) enter into, carry out, assign or accept the assignment of, vary or rescind, any contract, agreement or other obligation;</p> <p>(c) establish and maintain such hospital services as the Authority considers</p>

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	<p>culture;</p> <p>(g) establish any body corporate or any trust or non-profit making organization to facilitate the attainment of its purposes;</p> <p>(h) acquire or dispose of shares of any body corporate;</p> <p>(i) liaise and cooperate with any person for any purposes consistent with its purposes;</p> <p>(j) determine, approve or collect, or vary, waive or refund, fees or charges for the use of arts and cultural facilities, related facilities or ancillary facilities and specify terms and conditions for the use of</p>		<p>building which it holds and may charge fees for its services in connection with such management;</p> <p>(g) surrender any lease or apply for and agree to the modification of lease conditions or enter into any exchange;</p> <p>(h) undertake and execute any trust which has for its object the furtherance of urban renewal;</p> <p>(i) accept gifts and donations; and</p> <p>(j) appoint employees.</p> <p>• (c.f. s. 6 of the Ordinance)</p>	<p>provided;</p> <p>(i) fix and charge fees for the services and facilities provided by the Corporation;</p> <p>(j) organize and hold seminars or exhibitions;</p> <p>(k) accept gifts; and</p> <p>(l) establish a subsidiary company or trust.</p> <p>• (c.f. s. 8 of the Ordinance)</p>	<p>private gifts and donations;</p> <p>(e) accept sponsorship and raise money;</p> <p>(f) disburse grants to organizations and individuals for the planning, development and promotion of the arts;</p> <p>(g) consult, communicate, collaborate and facilitate cultural exchanges with organizations in places outside Hong Kong in the development of the arts and to secure the benefit of relevant experience from places outside Hong Kong, and to encourage and support others to do so where considered appropriate by the Council;</p>	<p>connection with such management;</p> <p>(e) to control the user of car parks and parking places, to fix such fees for the use of car parks and parking places, and to collect the fees;</p> <p>(f) to carry out, subject to such directions as the Chief Executive may from time to time give, the clearance of any land in Hong Kong;</p> <p>(g) to enter into, assign or accept the assignment of, and vary or rescind, any contract or obligation;</p> <p>(h) to develop land and to lay out streets and open spaces for the purpose of providing</p>	<p>necessary or desirable;</p> <p>(d) erect, provide and improve the buildings, premises, furniture and equipment used by the Authority for the provision of hospital services;</p> <p>(e) employ such persons as it thinks fit to carry out hospital services or any other matter relating to the performance of its functions or the exercise of its powers;</p> <p>(f) undertake and execute any lawful trust, and accept and solicit gifts and donations; and</p> <p>(g) make grants of financial assistance out of the resources of the Authority to</p>

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	facilities; (k) commission, mount or present any work of arts production; and (l) engage in such activities as the Chief Executive in Council may, after consultation with the Authority, permit or assign to it by order published in the gazette. • (c.f. s. 5 of the Bill)				(h) acquire, take on lease, purchase, hold movable property and immovable property; (i) surrender any lease or apply for and agree to the modification of lease conditions or enter into any exchange; and (j) undertake any trust. • (c.f. s. 5 of the Ordinance)	housing or in connection therewith; and (i) to undertake and execute any lawful trust which has for its object the furtherance of the provision of housing in Hong Kong • (c.f. s. 4(2) of the Ordinance)	charitable and other organizations, and to other persons, involved in services relevant to the health of the public; • (c.f. s. 5 of the Ordinance)
<b>Governance Structure (Membership Composition)</b>	• The Board of the Authority is to consist of the Chairman who may or may not be a public officer; the Chief Executive Officer; not more than 15 other members who are not public officers (including at least 5 members who, in the opinion of the Chief Executive, have knowledge of, or	• The Authority shall consist of a Chairman, a Chief Executive Officer and 8 to 15 other members. • The number of members of the Authority who are public officers shall not at any time exceed the number of such members who are not public officers. • (c.f. s. 3 of the	• The Board of the Urban Renewal Authority shall comprise a Chairman, who is at the same time a non-executive director and is not a public officer; a Managing Director, who is at the same time an executive director and is not a public officer; 2 other executive directors, not being	• The Board of Directors consist of a Chairman and such number, to be determined by the Financial Secretary (but being neither less than 8 nor more than 16), of other members. • (c.f. Schedule 2 to the Ordinance)	• Members of the Council consist of a Chairman, a Vice-chairman, 3 public officers (the Secretary for Home Affairs or his representative; the Permanent Secretary for Education or his representative; and the Director of Leisure and Cultural Services or his representative) and	• The Authority shall consist of- (a) the Director of Housing; (b) such number of persons, other than public officers, as the Chief Executive may appoint; (c) such number of public officers, not exceeding 3, as the Chief Executive may appoint.	• Members of the Authority shall consist of a Chairman, not being a public officer; not more than 3 public officers; not more than 4 principal officers; and not more than 23 other members, not being public officers. • (c.f. s. 3(3) of the Ordinance) • N.B.- "Public



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	experience in, or exposure to, arts and cultural activities and at least one member who is a member of the Legislative Council); and 3 other members who are public officers. • (c.f. s. 6 of the Bill)	<b>Ordinance)</b>	public officers; not less than 7 other non-executive directors, not being public officers; and 4 other non-executive directors who are public officers. • (c.f. s. 4 of the Ordinance)		not more than 22 other members. • (c.f. s. 5 of the Ordinance)	• (c.f. s. 3(2) of the Ordinance)	officer" is defined in the Ordinance as a person employed in the Civil Service of the Government.
<b>Governance Structure (Appointment Mechanism)</b>	<ul style="list-style-type: none"> <li>All Board members (other than the Chief Executive Officer) are to be appointed by the Chief Executive.</li> <li>The Chief Executive Officer is to be appointed by the Authority with the prior approval of the Chief Executive and is an ex-officio member of the Board.</li> <li>(c.f. s. 6 of the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>The Board shall consist of the persons who for the time being comprise the Authority.</li> <li>Other than the Chief Executive Officer, the Chairman and the other members of the Authority shall each be appointed by the Chief Executive.</li> <li>The Chief Executive Officer shall be a member ex officio.</li> <li>(c.f. s. 3 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>Board members of the Authority are appointed by the Chief Executive.</li> <li>(c.f. s. 4 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>The Chairman of the Board shall be appointed by the Chief Executive; other members shall be appointed by the Financial Secretary.</li> <li>(c.f. Schedule 2 to the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>Members of the Council are appointed by the Chief Executive.</li> <li>Up to 10 persons nominated by organizations representing the following interests: literary arts; music; dance; drama; visual arts; film arts; arts administration; arts education; arts criticism; Chinese opera.</li> <li>(c.f. s. 3 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>Other than the Director of Housing, the Chief Executive shall appoint such numbers of non-public officers and not more than 3 public officers as members.</li> <li>The Chief Executive shall appoint — <ul style="list-style-type: none"> <li>(a) one of the persons appointed (public officers or not) as the Chairman of the Authority; and</li> <li>(b) one of the members of the Authority as the Vice-Chairman</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Members or the Authority are appointed by the Chief Executive.</li> <li>(c.f. s. 3(3) of the Ordinance)</li> </ul>

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						of the Authority. • (c.f. s. 3 of the Ordinance)	
<b>Mode of Operation</b>	<ul style="list-style-type: none"> <li>• A Board of the Authority is established and it is the governing and executive body of the Authority.</li> <li>• (c.f. ss. 6(1) and (2) of the Bill)</li> <li>• The Board may, for the purpose of performing any of the functions of the Authority, establish such committee as the Board considers necessary or expedient to deal with matter.</li> <li>• (c.f. s. 9 of the Bill)</li> <li>• The Authority may appoint the Chief Executive Officer (, with the prior approval of the Chief Executive) and its employees.</li> <li>• (c.f. ss. 7 and 10 of the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>• The affairs of the Authority shall be under the care and management of a board whose functions shall comprise such care and management.</li> <li>• (c.f. s.4(1) of the Ordinance)</li> <li>• The Authority may establish standing or other committees to exercise powers delegated to them and may refer or assign any matter for consideration or inquiry by the committee.</li> <li>• (c.f. ss.9 and 10 of the Ordinance)</li> <li>• The Authority may appoint a person to be the Authority's chief executive officer for the</li> </ul>	<ul style="list-style-type: none"> <li>• The Board of the Authority shall be the governing and executive body of the Authority and shall exercise and perform the powers and duties as are conferred and imposed on the Authority.</li> <li>• (c.f. s.4 of the Ordinance)</li> <li>• The Managing Director is the administrative head of the Authority. The Managing Director is responsible for administering the affairs of the Authority and has such other responsibilities as may be assigned by the Board of the Authority.</li> <li>• (c.f. section 4(5) of</li> </ul>	<ul style="list-style-type: none"> <li>• The Corporation shall have a Board of Directors. The Board shall be the governing body of the Corporation with authority, in the name of the Corporation, to perform the functions of the Corporation.</li> <li>• (c.f. s.4 of the Ordinance)</li> <li>• The Board may establish such committees as it considers appropriate for the purposes of the Corporation.</li> <li>• (c.f. s.9 of the Ordinance)</li> <li>• The Board shall, subject to the prior approval of the Financial Secretary appoint a person,</li> </ul>	<ul style="list-style-type: none"> <li>• The Council shall consist of not more than 27 members. The Council shall appoint a person to be the executive officer to perform the function of leading and managing the facilities and staff of the Council and of representing the Council to and dealing with other persons and bodies in the ordinary course of the day-to-day business and functions of the Council.</li> <li>• (c.f. ss.3 and 6 of the Ordinance)</li> <li>• The Council may appoint other employees.</li> <li>• (c.f. s. 6 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority may appoint persons to be its officers or other employees.</li> <li>• (c.f. s.6A of the Ordinance)</li> <li>• The Authority may appoint committees for the better discharge of its functions.</li> <li>• (c.f. s.7 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall consist of a Chairman and not more than 30 members. The members of the Authority shall form its governing body with authority to perform the functions and exercise the powers of the Authority.</li> <li>• (c.f. s. 3 of the Ordinance)</li> <li>• The Authority may establish such committees for the better performance of its functions and exercise of its powers as it thinks fit.</li> <li>• (c.f. s. 13 of the Ordinance)</li> <li>• The Authority may appoint principal officers and</li> </ul>

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	<ul style="list-style-type: none"> <li>The Authority shall manage its finances with due care and diligence and ensure the financial sustainability of the operation and management of arts and cultural facilities, related facilities and ancillary facilities.</li> <li><b>(c.f. ss. 19(2) of the Bill)</b></li> </ul>	<p>general management and administration of the Authority's affairs, the performance or exercise of functions or responsibilities assigned or delegated to him.</p> <ul style="list-style-type: none"> <li><b>(c.f. s. 15(1) of the Ordinance)</b></li> <li>The Authority may appoint persons to be its officers or employees.</li> <li><b>(c.f. s. 15(2) of the Ordinance)</b></li> <li>The Authority shall conduct its business according to prudent commercial principles and shall, as far as practicable, ensure that, taking one year with another, its revenue is at least sufficient to meet its expenditure.</li> <li><b>(c.f. s.6 of the Ordinance)</b></li> </ul>	<p><b>the Ordinance)</b></p> <ul style="list-style-type: none"> <li>The Authority may appoint employees.</li> <li><b>(c.f. section 6(q) of the Ordinance)</b></li> <li>The Authority shall exercise due care and diligence in the handling of its finances.</li> <li><b>(c.f. s.10(4) of the Ordinance)</b></li> </ul>	<p>who may be a public officer, to be the Chief Executive Officer of the Corporation. The Chief Executive Officer is the administrative head of the Corporation and is responsible for administering the affairs of the Corporation and has such other responsibilities as may be assigned by the Board.</p> <ul style="list-style-type: none"> <li><b>(c.f. section 14 of the Ordinance)</b></li> <li>The Board may appoint employees.</li> <li><b>(c.f. section 15 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The Council may establish committees that it considers appropriate for the better carrying out of the functions, powers and duties of the Council.</li> <li><b>(c.f. s.7 of the Schedule to the Ordinance)</b></li> </ul>		<p>employees.</p> <ul style="list-style-type: none"> <li><b>(c.f. ss. 3 and 10 of the Schedule to the Ordinance)</b></li> </ul>

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<b>Funding Arrangement</b>	<ul style="list-style-type: none"> <li>The resources of the Authority consist of-               <ul style="list-style-type: none"> <li>(a) all moneys paid by the Government to the Authority, whether by way of appropriation by the Legislative Council, loan or any other means;</li> <li>(b) all moneys provided by any person other than the Government to the Authority, whether by way of loan or any other means;</li> <li>(c) income received by the Authority by operating or managing arts and cultural facilities, related facilities or ancillary facilities; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The initial authorized share capital of the Authority is \$36,648 million divided into 366,480 shares of \$100,000 each.</li> <li>The Financial Secretary may, after consulting the Authority, increase the capital of the Authority.</li> <li>The Authority shall issue at par to the Government such number of shares as the Financial Secretary shall from time to time direct.</li> <li><b>(c.f. s. 23 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The resources of the Authority shall consist of-               <ul style="list-style-type: none"> <li>(a) all money paid by the Government to the Authority and appropriated for that purpose by the Legislative Council; and</li> <li>(b) all other money and property, including fees, rent, interest and accumulations of income.</li> </ul> </li> <li><b>(c.f. s. 10 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The authorized capital of the Corporation is equal to the value of the net assets in respect of all assets and liabilities vested in the Corporation on the appointed day and shall be divided into shares of such denomination as the Financial Secretary shall determine.</li> <li><b>(c.f. ss. 8(2)(n), 17 to 20 and 25 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The capital of the Council consist of:               <ul style="list-style-type: none"> <li>(a) payment authorized by the Chief Executive out of money appropriated by the Legislative Council;</li> <li>(b) money received by the Council for or in connection with the carrying out of its functions; and</li> <li>(c) money from other sources, including gifts, donations, fees and investment income.</li> </ul> </li> <li><b>(c.f. ss. 8 and 9 of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may, by order, vest in the Authority the control and management of any property which is vested in the Government.</li> <li>The assets and liabilities accounted for in the Home Ownership Fund as at 31 March 1988 shall, on 1 April 1988, become assets and liabilities of the Authority.</li> <li><b>(c.f. ss. 5 and 5A of the Ordinance)</b></li> </ul>	<ul style="list-style-type: none"> <li>The resources of the Authority shall consist of-               <ul style="list-style-type: none"> <li>(a) all money paid by the Government to the Authority and appropriated for that purpose by the Legislative Council; and otherwise provided to the Authority by the Government; and</li> <li>(b) all other money and property, including gifts, donations, fees, rent, interest and accumulations of income received by the Authority.</li> </ul> </li> <li><b>(c.f. ss. 7-9 of the Ordinance)</b></li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	(d) all other moneys and property, including gifts, sponsorships, donations, interest, profits, dividends and investment income, received by the Authority. • (c.f. s.19 of the Bill)						
<b>Consultation Mechanism</b>	<ul style="list-style-type: none"> <li>The Authority shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public at such time and in such manner as it considers appropriate.</li> <li>In preparing a development plan, the Authority shall</li> </ul>	• Not provided.	<ul style="list-style-type: none"> <li>The Secretary for Development shall consult the public before finalizing the urban renewal strategy in such manner as he may determine. The Secretary needs not consult the public before revising or amending the urban renewal strategy prepared under that subsection if he considers that such revision or amendment is of a minor, technical or</li> </ul>	• Not provided.	• Not provided.	• Not provided.	<ul style="list-style-type: none"> <li>The Authority shall appoint persons to a Regional Advisory Committee established for a region. Key functions of the Regional Advisory Committee include advising the Authority on planning to meet the need for hospital services and the provision of specific services in particular public hospitals in the region; monitoring public</li> </ul>

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	consult the public at such time and in such manner as it considers appropriate. • (c.f. ss. 17 and 18(3)(a) of the Bill)		insignificant nature. • (c.f. s. 20 of the Ordinance)  • The Authority shall publish its urban renewal projects for public inspection. • (c.f. s. 23 of the Ordinance)  • Any person who considers that he will be affected by a project to be implemented by way of a development project and who wishes to object to the implementation of the development project may send to the Authority a written statement of his objections to the project. • (c.f. s. 24 of the Ordinance)				opinion on hospital services in the region; advising the Authority and public hospitals in the region on the allocation of resources within the region. • (c.f. ss. 11 and 12 of Schedule 3 to the Ordinance)
<b>Procedure and Manner of Meeting</b>	• The Board may regulate its own proceedings and business relating to any Board meeting.	• The Ordinance does not specify whether the Authority may regulate its own procedure; it only	• The Board of the Authority shall have power to regulate its own procedure including the	• The Board may determine the procedure at, and the conduct of, its meetings.	• The Council may regulate its own procedure. • (c.f. s. 6 of the Schedule to the	• The Authority may make rules regulating the procedure at meetings of the	• The Authority shall have power to regulate its own procedure including the manner in which

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	<p>The committee established under the Board may regulate its own administration, proceedings and business in such manner as it considers appropriate.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 9(8) of the Bill and s. 17 of the Schedule to the Bill)</li> </ul>	<p>specifies particulars such as quorum and voting procedure, etc.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 11 of the Ordinance)</li> <li>• The Audit Committee may regulate its own procedure and business.</li> <li>• (c.f. s. 31(5) of the Ordinance)</li> </ul>	<p>manner in which decisions of the Board of the Authority may be made by a quorum of its members otherwise than at a meeting of the Board of the Authority.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 4 of the Schedule to the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• (c.f. s. 4 of Schedule 2 to the Ordinance)</li> </ul>	<b>Ordinance)</b>	<p>Authority or of any committee appointed.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 3(9) of the Ordinance)</li> </ul>	<p>decisions of the Authority may be made by a quorum of its members otherwise than at a meeting of the Authority.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 9 of Schedule 3 to the Ordinance)</li> </ul>
<b>Accountability Measures and Safeguard of Public Interest</b>	<ul style="list-style-type: none"> <li>• The Authority shall appoint an auditor to audit the statement of accounts.</li> <li>• (c.f. s.26 of the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority's statement of accounts shall be audited by an auditor.</li> <li>• (c.f. s. 32 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall appoint an auditor to audit the accounts of the Authority.</li> <li>• (c.f. s. 17 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Corporation shall appoint an auditor who shall prepare an auditor's report on a statement of accounts.</li> <li>• (c.f. s. 23 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Council shall appoint an auditor to audit its statement of accounts and he shall submit a report on the accounts to the Council.</li> <li>• (c.f. s. 13 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The accounts of the Authority shall be submitted to the Director of Audit who shall audit the accounts.</li> <li>• (c.f. s.14 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall appoint an auditor who shall audit the accounts and statement of accounts.</li> <li>• (c.f. s. 10 of the Ordinance)</li> </ul>
	<ul style="list-style-type: none"> <li>• The Authority shall establish the Audit Committee to consider such matters relating to the financial affairs of the Authority and to conduct an audit.</li> <li>• (c.f. s.8 of the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall establish the Audit Committee to consider such matters relating to the financial affairs of the Authority or to audits generally.</li> </ul>	Not provided.	Not provided.	Not provided.	Not provided.	Not provided.

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		<ul style="list-style-type: none"> <li>(c.f. s. 31 of the Ordinance)</li> </ul>					
	<ul style="list-style-type: none"> <li>The Director of Audit may conduct an examination into the economy, efficiency and effectiveness with which the Authority has expended its resources in performing its functions.</li> <li>(c.f. s.27 of the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which the Council has used its capital in carrying out its functions, powers and duties.</li> <li>(c.f. s. 14 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>Not provided.</li> <li>N.B.- The Authority's accounts are to be audited by the Director of Audit.</li> <li>(c.f. s.14 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>The Director of Audit may, in respect of any financial year, conduct an examination into the economy and efficiency with which the Authority has expended its resources in performing its functions and exercising its powers.</li> <li>(c.f. s. 11 of the Ordinance)</li> </ul>
	<ul style="list-style-type: none"> <li>The Chief Executive in Council may, if he considers the public interest so requires, give such directions in writing to the Authority as he considers appropriate.</li> <li>The Authority shall comply with any direction given by the Chief Executive</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive in Council may, if he considers the public interest so requires, give to the Authority such directions (in writing) as regards the performance of any of its functions as he considers appropriate; The Authority shall comply with any</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may, if he considers the public interest so requires, give directions in writing to the Authority in relation to the exercise of its powers or the performance of its duties.</li> <li>The Authority shall comply with those</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may, if he considers it to be in the public interest so to do, give the Corporation such general directions in writing as regards the performance of its functions as he considers appropriate.</li> <li>The Corporation</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may, if he considers the public interest so requires, give to the Council directions in writing, not inconsistent with its functions and powers under this Ordinance, with respect to the carrying out of its functions, powers or</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Authority or a public officer, of any power, functions or duties under this</li> </ul>	<ul style="list-style-type: none"> <li>The Chief Executive may, if he considers the public interest so requires, give directions in writing of a general or specific character to the Authority in relation to the performance of its functions or the exercise of its powers and the</li> </ul>



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	<p>in Council.</p> <ul style="list-style-type: none"> <li>• (c.f. s.13 of the Bill)</li> </ul>	<p>direction given by the Chief Executive based on public interest.</p> <p>(c.f. s. 20 of the Ordinance)</p>	<p>directions.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 33 of the Ordinance)</li> </ul>	<p>shall give effect to a direction given.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 12 of the Ordinance)</li> </ul>	<p>duties, either generally or in any particular case, and the Council shall comply with those directions.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 16 of the Ordinance)</li> </ul>	<p>Ordinance.</p> <ul style="list-style-type: none"> <li>• The Authority and every public officer shall, in the exercise or performance of any powers, functions or duties under this Ordinance, comply with any directions given by the Chief Executive.</li> <li>• (c.f. s.9 of the Ordinance)</li> </ul>	<p>Authority shall comply with those directions.</p> <ul style="list-style-type: none"> <li>• (c.f. s.15 of the Ordinance)</li> </ul>
	<ul style="list-style-type: none"> <li>• The Authority shall keep proper accounts and records of its transactions. It shall ensure that a statement of accounts is prepared within 3 months after the end of each financial year.</li> <li>• The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary a copy of its annual report, statement of accounts and</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall keep proper accounts and records of its transactions and prepare a statement of accounts, furnish its annual report, statement of accounts and auditor's report to the Financial Secretary who shall cause copies thereof to be laid on the table of the Legislative Council.</li> <li>• (c.f. s. 32 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall keep proper accounts of its accounting records and prepare a statement of accounts.</li> <li>• (c.f. s. 16 of the Ordinance)</li> <li>• Not later than 3 months after the end of each financial year, the Authority shall submit the financial statements prepared for that year to the Authority's auditor</li> </ul>	<ul style="list-style-type: none"> <li>• The Corporation shall keep proper accounts and records of all its financial transactions.</li> <li>• The Corporation shall as soon as practicable after the expiry of a financial year prepare a statement of accounts in respect of the financial year in accordance with generally accepted accounting principles.</li> <li>• The Corporation shall, within 6</li> </ul>	<ul style="list-style-type: none"> <li>• The Council shall maintain proper accounts and records in relation to its accounts and transactions and shall, as soon as practicable and in any case not later than 5 months after the close of each financial year, prepare in respect of that financial year, a statement of accounts of the Council, which shall include an income and expenditure</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall keep, under the general direction of the Director of Accounting Services, proper accounts and other records and shall prepare in respect of each financial year a statement of accounts.</li> <li>• As soon as the accounts of the Authority have been audited, the Authority shall send to the Chief Executive a copy of</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall keep or cause to be kept proper accounts and proper records in relation to the accounts in respect of the Authority and the public hospitals.</li> <li>• The Authority shall, as soon as practicable after the expiry of a financial year, prepare a consolidated statement of accounts of the Authority and the public hospitals. The Authority shall, as</li> </ul>

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	<p>auditor's report. The Financial Secretary shall cause the documents received to be laid on the table of the Legislative Council.</p> <ul style="list-style-type: none"> <li>• (c.f. ss.25 and 31 of the Bill)</li> </ul>		<p>for auditing.</p> <ul style="list-style-type: none"> <li>• The Authority shall, as soon as practicable, furnish a report of the affairs of the Authority for that year; a copy of the audited financial statements thereof; and the auditor's report on audit of those statements, to the Financial Secretary who shall cause the same to be tabled in the Legislative Council.</li> <li>• (c.f. s. 18 of the Ordinance)</li> </ul>	<p>months after the end of a financial year or such longer period as the Secretary may allow, furnish to him a report on the activities of the Corporation for that financial year; a copy of its statement of accounts for that financial year; and a copy of the auditor's report for that financial year.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 23 of the Ordinance)</li> <li>• The Secretary shall cause a copy of each of the documents to be laid on the table of the Legislative Council within the financial year immediately following the one to which the documents are related.</li> <li>• (c.f. s. 24 of the Ordinance)</li> </ul>	<p>account and a balance sheet and be signed by the Chairman and the executive officer.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 12 of the Ordinance)</li> <li>• The Council shall, not later than 9 months or a longer time that the Chief Executive may determine, after the close of each financial year submit a report on the activities and affairs of the Council for that year; a copy of its statement of the accounts for that year; and the auditor's report on the accounts, to the Chief Executive who shall cause such statement and reports to be laid on the table of the Legislative Council not later than 3 months after the receipt of such</li> </ul>	<p>the statement of accounts signed by the Chairman together with a copy of the report made by the auditor on that statement or on the accounts of the Authority.</p> <ul style="list-style-type: none"> <li>• The Secretary for Transport and Housing shall lay a copy of every such statement and report on the table of the Legislative Council.</li> <li>• (c.f. s.14 of the Ordinance)</li> <li>• The Authority shall, as soon as possible after the end of each financial year, make to the Chief Executive a report dealing generally with the activities of the Authority during that year. The Secretary for Transport and Housing shall lay a copy of every such annual report on the</li> </ul>	<p>soon as practicable and in any case not later than 9 months after the expiry of a financial year, furnish a report on the activities of the Authority for that year, a copy of the statement of accounts for that year and the auditor's report on the statement, to the Secretary for Food and Health who shall cause the same to be tabled in the Legislative Council.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 10 of the Ordinance)</li> </ul>

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					statement and reports by the Chief Executive. • (c.f. s. 15 of the Ordinance)	table of the Legislative Council. • (c.f. s.15 of the Ordinance)	
	<ul style="list-style-type: none"> <li>• A Board member or a committee member shall, upon his first appointment and on such occasion as the circumstances may require after the appointment, disclose to the Authority his interest. The Authority shall establish and maintain a register relating to any disclosure for inspection by the public.</li> <li>• The Authority may, for the purposes of this section determine the class or description of the interest required to be disclosed, determine the details of the interest required to be</li> </ul>	<ul style="list-style-type: none"> <li>• As soon as practicable after appointment to membership or as and when occasion may thereafter require, a member of the Authority shall declare to the Authority in such manner as is for the time being determined by the Authority any interest of his which is of a class or description so determined.</li> <li>• Where a member of the Authority makes a declaration, the Authority shall cause the name of the member to be entered in the register together with the particulars contained in the</li> </ul>	<ul style="list-style-type: none"> <li>• As soon as practicable after appointment to membership or as and when the occasion may thereafter require, a member of the Board of the Authority shall declare to the Authority in such manner as is for the time being determined by the Authority, any interest of his which is of a class or description so determined.</li> <li>• Where a member of the Board of the Authority makes a declaration, the Authority shall cause the name of the member to be entered in the</li> </ul>	<ul style="list-style-type: none"> <li>• As soon as practicable after appointment to membership, and when occasion requires after the appointment, a member of the Board or a committee shall declare to the Board in such manner as is for the time being determined by the Board (whether by standing orders or otherwise) any interest of his which is of a class or description so determined.</li> <li>• Where a person makes a declaration, the Corporation shall cause the name of the person to be entered in the register together</li> </ul>	<ul style="list-style-type: none"> <li>• A member of the Council and a person appointed to a committee who is in any way directly or indirectly interested in a contract made or proposed to be made by the Council or in a contract made or proposed to be made by a servant or agent of the Council which is brought up for consideration at a meeting of the Council or a committee, shall disclose the nature of his interest at the meeting.</li> <li>• The disclosure shall be recorded in the minutes of the meeting.</li> <li>• (c.f. s. 8 of the Schedule to the</li> </ul>	<ul style="list-style-type: none"> <li>• Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>• A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority; an employee, agent or a partner of the Authority; or a body corporate established by the Authority, shall disclose the nature of his interest at a meeting of the Authority.</li> <li>• The Authority shall record the disclosure in the minutes of the meeting of the Authority.</li> <li>• (c.f. s. 5 of Schedule 3 to the Ordinance)</li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	disclosed and the manner in which such interest is to be disclosed. <ul style="list-style-type: none"> <li>The Authority shall establish and maintain a register relating to any disclosure required to be made at its principal office and the Authority shall make available the register for inspection by the public at any reasonable time.</li> <li><b>(c.f. s.34 of the Bill)</b></li> </ul>	declaration. <ul style="list-style-type: none"> <li>The Authority shall make the register available for public inspection at any reasonable time.</li> <li><b>(c.f. s. 13 of the Ordinance)</b></li> </ul>	register together with the particulars contained in the declaration. <ul style="list-style-type: none"> <li>The Authority shall make the register available for public inspection at its principal office at any reasonable time.</li> <li><b>(c.f. s. 7 of the Ordinance)</b></li> </ul>	with the particulars contained in the declaration. <ul style="list-style-type: none"> <li>The Corporation shall make the register available for public inspection at its principal office at any reasonable time.</li> <li><b>(c.f. s. 10 of the Ordinance)</b></li> </ul>	<b>Ordinance)</b>		
	<ul style="list-style-type: none"> <li>The Authority shall, before the end of each financial year, send to the Secretary for Home Affairs for record purpose a corporate plan of the Authority for a period of 3 years beginning on the first day of the next financial year covering in relation to that period a</li> </ul>	<ul style="list-style-type: none"> <li>For the purposes of record, the Authority shall before the end of each financial year, send to the Financial Secretary an estimate of its expenditure and revenue for the next financial year together with its business plan for the period of 5 years beginning on the</li> </ul>	<ul style="list-style-type: none"> <li>The Authority shall not later than 3 months before the end of each financial year submit to the Financial Secretary for approval a draft corporate plan for a period of 5 years beginning on the first day of the next financial year covering in relation to that period its</li> </ul>	<ul style="list-style-type: none"> <li>The Corporation shall, in each financial year, and not later than the date which is for the time being specified by the Financial Secretary, send to the Financial Secretary estimates of its income and expenditure for the subsequent financial year.</li> </ul>	<ul style="list-style-type: none"> <li>The Council shall submit to a person nominated by the Chief Executive at the time and in respect of the periods that the Chief Executive may direct, a programme of its proposed activities and estimates of its income and expenditure.</li> </ul>	<ul style="list-style-type: none"> <li>In each financial year, before a date to be appointed by the Chief Executive, the Authority shall submit to the Chief Executive for his approval a programme of its proposed activities and estimates of the income and expenditure of the Authority for the</li> </ul>	<ul style="list-style-type: none"> <li>Not provided.</li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	<p>programme of activities and projects that the Authority proposes to conduct or implement; a financial plan including the projected revenue and expenditure, any proposed investment, any proposed loan and the purpose of taking out the loan, the amount and repayment schedule involved (if any), and the staffing requirement, of the Authority.</p> <ul style="list-style-type: none"> <li>• The Authority shall, before the end of each financial year, send to the Secretary for Home Affairs for record purpose a business plan of the Authority for the next financial year covering in relation to that year details of the activities and projects that are to</li> </ul>	<p>first day of the next financial year; and its financial plan for the period of 5 years beginning on the first day of the next financial year covering in relation to that period its investments, its business forecast, its criteria of charges and its staffing.</p> <ul style="list-style-type: none"> <li>• (c.f. s. 33 of the Ordinance)</li> </ul>	<p>programme of proposals to be implemented. The Authority may suggest, for the approval of the Financial Secretary, for inclusion in its corporate plan any other proposal or the implementation of any other project as it thinks fit.</p> <ul style="list-style-type: none"> <li>• At the same time as the submission of the draft corporate plan, the Authority shall submit to the Financial Secretary for approval a draft business plan for the next financial year covering in relation to that financial year its programme of proposals to be implemented.</li> <li>• (c.f. ss. 21 and 22 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Financial Secretary may refuse to accept estimates sent to him and where he does so he shall require the Corporation, within such time as shall be specified in the requirement, to send to him revised estimates of the relevant income and expenditure.</li> <li>• (c.f. s. 22 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Council may from time to time revise the programme of its proposed activities and estimates of its income and expenditure.</li> <li>• (c.f. s. 11 of the Ordinance)</li> </ul>	<p>next financial year.</p> <ul style="list-style-type: none"> <li>• (c.f. s.4(3) of the Ordinance)</li> </ul>	

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	<p>be conducted or implemented under the corporate plan; resources required to conduct or implement such activities and projects; details of the financial plan including the estimated revenue and expenditure; any proposed loan (including allowances for interest payments); and the staffing requirement.</p> <ul style="list-style-type: none"> <li>• (c.f. s.29 and 30 of the Bill)</li> </ul>						
	<ul style="list-style-type: none"> <li>• The Chief Executive may require the Authority to furnish to him such information relating to its affairs or activities as may be specified by him.</li> <li>• (c.f. s.14 of the Bill)</li> <li>• The Financial Secretary may require the Authority</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall supply the Chief Executive with such information relating to any of the Authority's property or affairs as he may from time to time require.</li> <li>• (c.f. s. 19 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority shall upon request by the Secretary for Development afford to him sufficient facilities for obtaining information with respect to the property and affairs of the Authority and shall, in such manner and at such</li> </ul>	<ul style="list-style-type: none"> <li>• The Corporation shall furnish to the Chief Executive such information related to its activities as may be specified by him.</li> <li>• (c.f. s. 13 of the Ordinance)</li> </ul>	<ul style="list-style-type: none"> <li>• Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>• Not provided.</li> </ul>	<ul style="list-style-type: none"> <li>• Secretary for Food and Health may obtain information.</li> <li>• The Authority shall upon request by the Secretary for Food and Health afford to him sufficient facilities for obtaining information with respect to the property, liabilities</li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	to furnish to him such information relating to its financial affairs as may be specified by him. • <b>(c.f. s.15 of the Bill)</b>		times as the Secretary for Development may require, furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished. • <b>(c.f. s. 32 of the Ordinance)</b>				and activities of the Authority and shall furnish him with returns, accounts and other information and afford to him facilities for the verification of information furnished in the manner and at the times that the Secretary for Food and Health requires. • <b>(c.f. s. 17 of the Ordinance)</b>
	• The Authority shall manage its finances with due care and diligence and ensure the financial sustainability of the operation and management of arts and cultural facilities, related facilities and ancillary facilities. • <b>(c.f. s.19 of the Bill)</b>	• The Authority shall conduct its business according to prudent commercial principles and shall, as far as practicable, ensure that, taking one year with another, its revenue is at least sufficient to meet its expenditure. • <b>(c.f. s.6 of the Ordinance)</b>	• Not provided.	• The Corporation shall conduct business according to prudent commercial principles. • <b>(c.f. s. 7 of the Ordinance)</b>	• Not provided.	• Not provided.	• Not provided.
	• The Chairman and the Chief Executive	• Not provided.	• The Chairman and the executive	• Not provided.	• Not provided.	• Not provided.	• Not provided.

	<b>West Kowloon Cultural District Authority</b>	<b>Airport Authority (Cap. 483)</b>	<b>Urban Renewal Authority (Cap. 563)</b>	<b>Hong Kong Science and Technology Parks Corporation (Cap. 565)</b>	<b>Hong Kong Arts and Development Council (Cap. 472)</b>	<b>Hong Kong Housing Authority (Cap. 283)</b>	<b>Hospital Authority (Cap. 113)</b>
	Officer shall upon request by the Legislative Council attend the Council's meeting and answer questions raised by the Members of the Legislative Council at the meetings. • <b>(c.f. s.16 of the Bill)</b>		directors shall upon request by the Legislative Council attend the Council's meetings and answer questions raised by the Members of the Legislative Council at the meetings. • <b>(c.f. s. 9 of the Ordinance)</b>				
	• The Authority, its committees and body corporate it established (including subsidiary companies), trusts and non-profit making organizations are incorporated into Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201), so that members of the Authority are to be governed by related clauses in Cap. 201. The Authority is added into Part 1 of Schedule 1 to The	• The Authority has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) and Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance and the Ombudsman Ordinance)</b>	• The Authority has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) and Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance and the Ombudsman Ordinance)</b>	• The Corporation has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201). It is not included in Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance)</b>	• The Council has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) and Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance and the Ombudsman Ordinance)</b>	• The Authority has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) and Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance and the Ombudsman Ordinance)</b>	• The Authority (including any committee established by the Hospital Authority) has already been included in Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) • The Authority has been included in Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397). • <b>(c.f. Schedule 1 to the Prevention of Bribery Ordinance and the Ombudsman Ordinance)</b>



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	<p>Ombudsman Ordinance (Cap. 397), so that the Authority will be put under the Ombudsman's scrutiny.</p> <ul style="list-style-type: none"> <li>• (c.f. s.38 and 39 of the Bill)</li> </ul>						<b>Ordinance)</b>

**Comparison between the proposed West Kowloon Cultural District Authority and other comparable overseas statutory bodies**

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
<b>Major Functions</b>	<ul style="list-style-type: none"> <li>(a) prepare and amend development plan, and submit such plan to the Town Planning Board for its consideration;</li> <li>(b) to develop the leased area in accordance with the approved development plan;</li> <li>(c) to provide, operate, manage, maintain arts and cultural facilities, related facilities or ancillary facilities;</li> <li>(d) to advocate, promote, organize, sponsor, encourage and provide for the appreciation of and participation in arts and culture;</li> <li>(e) to promote, exhibit and display the arts;</li> <li>(f) to initiate and support the creation, composition, production, learning and practising of the arts;</li> <li>(g) to perform such other functions as are conferred or imposed on the Authority by or under the Ordinance or any other Ordinance.</li> </ul> <ul style="list-style-type: none"> <li>• <b>(c.f. section 4 of the Bill)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The Authority is established to carry out urban development, to develop the docklands area<sup>1</sup>, to undertake declared projects and to assist in the implementation of government urban development policies and strategies (including Melbourne 2030).</li> <li>• <b>(c.f. section 1 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• Functions of the Authority are –               <ul style="list-style-type: none"> <li>(a) to purchase, consolidate, or take on transfer land in metropolitan and regional areas for development for urban purposes;</li> <li>(b) to carry out development of land alone or in partnership or to enter into arrangements or agreements for the development of land;</li> <li>(c) to develop land in Victoria for residential and other urban purposes to provide a competitive market for land in Victoria;</li> <li>(d) to promote best practice in urban and community design and development, having regard to</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) to produce such plan or plans as may be necessary in relation to the corporation area in order to fulfill its objects;</li> <li>(b) to promote, undertake, facilitate and control the development of land within the corporation area in accordance with the approved development plan;</li> <li>(c) to efficiently manage, and dispose by lease, of land vested in or under the control of the corporation under the approved development plan so as to ensure the maximum prudent financial benefit for the corporation;</li> <li>(d) to efficiently manage and dispose of other property vested in or under the control of the corporation so as to secure the maximum prudent financial benefit for the corporation;</li> <li>(e) to manage on an on-going basis all land and other property vested in or under the control of the corporation so as to secure the maximum prudent financial benefit for the corporation;</li> <li>(f) to promote, organize, and</li> </ul>	<ul style="list-style-type: none"> <li>(a) to formulate and carry out policies designed:               <ul style="list-style-type: none"> <li>(i) to promote excellence in the arts;</li> <li>(ii) to provide, and encourage the provision of, opportunities for persons to practise the arts;</li> <li>(iii) to promote the appreciation, understanding and enjoyment of the arts;</li> <li>(iv) to promote the general application of the arts in the community;</li> <li>(v) to foster the expression of a national identity by means of the arts;</li> <li>(vi) to uphold and promote the right of persons to freedom in the practice of the arts;</li> <li>(vii) to promote the knowledge and appreciation of Australian arts by persons in other countries;</li> <li>(viii) to promote incentives for, and recognition of, achievement in the practice of the arts; and</li> </ul> </li> </ul>

<sup>1</sup> The Docklands Area is a coastal area within Melbourne, Australia. It refers to the area shown on a plan of survey approved under section 4 of the Docklands Act 1991.

	West Kowloon Cultural District Authority	Victorian Urban Development Authority	South Bank Corporation	Australia Council
		<p>links to transport services and innovations in sustainable development;</p> <p>(e) to assist in the implementation of government urban development policies and strategies;</p> <p>(f) to contribute to improvements in housing affordability in Victoria;</p> <p>(g) to provide consultancy services in relation to the development of land whether within or outside Victoria or outside Australia;</p> <p>(h) to undertake and manage declared projects on behalf of the Crown;</p> <p>(i) any other functions conferred on the Authority by this Act;</p> <p>(j) the functions conferred on the Authority by the Docklands Act 1991 (e.g. to develop the docklands area; to investigate development options and prepare and implement development strategies and to take, support or promote measures to encourage people to live and work in the area);</p> <p>(k) any functions conferred on the Authority by any other Act</p> <ul style="list-style-type: none"> <li>• (c.f. section 7 of the Victorian Urban Development Authority Act 2003 and section 10 of the Docklands Act 1991)</li> </ul>	<p>conduct tourist, education, recreational, entertainment, cultural and commercial activities in the corporation area;</p> <p>(g) to construct, establish, maintain, develop and operate tourist, educational, recreational, entertainment, cultural and commercial facilities within the corporation area; and</p> <p>(h) to achieve, by the adoption of best practice principles, excellence and innovation in the management of open space and park areas;</p> <p>(i) to carry out works for the purpose of landscaping the corporation area.</p> <ul style="list-style-type: none"> <li>• (c.f. section 25 of the South Bank Corporation Act 1989)</li> </ul>	<p>(ix) to encourage the support of the arts by the States, local governing bodies and other persons and organizations;</p> <p>(b) to furnish advice to the Government of the Commonwealth, either of its own motion or upon request made to it by the Minister, on matters connected with the promotion of the arts or otherwise relating to the performance of its functions; and</p> <p>(c) to do anything incidental or conducive to the performance of any of the foregoing functions.</p> <ul style="list-style-type: none"> <li>• (c.f. section 5 of the Australia Council Act 1975)</li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
<b>Major General Powers</b>	<ul style="list-style-type: none"> <li>(a) acquire, hold, lease or hire any kind of property, whether movable or immovable;</li> <li>(b) sell, surrender or otherwise dispose of any kind of movable or immovable property;</li> <li>(c) enter into, assign or accept the assignment of any contract or obligation;</li> <li>(d) apply for and receive any grant;</li> <li>(e) receive gifts, donations or sponsorship, and act as trustee of moneys or other properties vested in it on trust;</li> <li>(f) sponsor or provide financial support to facilitate the organization of activities relating to arts and culture;</li> <li>(g) establish any body corporate or any trust or non-profit making organization to facilitate the attainment of its purposes;</li> <li>(h) acquire or dispose of shares of any body corporate;</li> <li>(i) liaise and cooperate with any person for any purposes consistent with its purposes;</li> <li>(j) determine, approve or collect, or vary, waive or refund, fees or charges for the use of arts and cultural facilities, related facilities or ancillary facilities and specify terms and conditions for the use of facilities;</li> <li>(k) commission, mount or present any work of arts production; and</li> </ul>	<ul style="list-style-type: none"> <li>• Powers of the Authority include – <ul style="list-style-type: none"> <li>(a) Purchase, take on transfer or otherwise acquire or dispose of real or personal property and may dispose of any such property acquired by it;</li> <li>(b) enter into contracts, agreements, leases and licences for the carrying out of its functions;</li> <li>(c) to act as agent of another person; and</li> <li>(d) the powers conferred on the Authority by the Docklands Act 1991, (e.g., acquire by agreement an interest in land on any terms (including consideration) that it considers appropriate; with the Minister's approval, acquire an interest in land by compulsory process).</li> </ul> </li> <li>• <b>(c.f. section 8 of the Victorian Urban Development Authority Act 2003 and section 19(2) of the Docklands Act 1991)</b></li> </ul>	<ul style="list-style-type: none"> <li>• In order to fulfil its objects and functions the corporation may, with the prior approval of the Minister – <ul style="list-style-type: none"> <li>(a) buy, sell, lease, exchange or otherwise acquire or dispose of land within the corporation area whether vested in it at the commencement of the Act or not; and</li> <li>(b) grant such easement or rights of way in relation to land within the corporation area as it considers necessary; and</li> <li>(c) transfer or surrender to the Crown in the right of Queensland any land possessed by it within the corporation area, that land then to be Crown land and dealt with in accordance with the provisions of the Land Act 1994.</li> </ul> </li> <li>• <b>(c.f. section 26 of the South Bank Corporation Act 1989)</b></li> <li>• The corporation may enter into negotiations with and arrive at agreements with all persons or bodies who have any interest in or charge over any land or other property within the corporation area.</li> <li>• <b>(c.f. section 28 of the South Bank Corporation Act 1989)</b></li> <li>• The corporation may enter into</li> </ul>	<ul style="list-style-type: none"> <li>• Powers of the Council includes – <ul style="list-style-type: none"> <li>(a) to enter into contracts;</li> <li>(b) to erect buildings;</li> <li>(c) to occupy, use and control land owned or held under lease by Australia and made available for the purposes of the Council;</li> <li>(d) to acquire, hold and dispose of real or personal property;</li> <li>(e) to accept gifts, devises, and bequests made to the Council whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Council upon trust;</li> <li>(f) to make grants or loans of money, and to provide scholarships or other benefits on such conditions as it thinks fit;</li> <li>(g) to co-operate with the States and local governing bodies and with other persons and organizations concerned with the arts; and</li> <li>(h) to do anything incidental to any of its powers.</li> </ul> </li> <li>• <b>(c.f. section 6(1) of the Australia Council Act 1975)</b></li> </ul>

	West Kowloon Cultural District Authority	Victorian Urban Development Authority	South Bank Corporation	Australia Council
	<p>(l) engage in such activities as the Chief Executive in Council may, after consultation with the Authority, permit or assign to it by order published in the gazette.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 5 of the Bill)</b></li> </ul>		<p>negotiation and arrive at agreements with public agencies in relation to all matters necessary to fulfil the objects and functions of the corporation and in particular the provision and maintenance by public agencies of services to, through, over and under the corporation area.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 27 of the South Bank Corporation Act 1989)</b></li> <li>• In carrying out its objects, functions, powers and duties under the Act, the corporation may, with the approval of the Minister, carry on any business to fulfil such objects, functions, powers and duties.</li> <li>• <b>(c.f. section 29 of the South Bank Corporation Act 1989)</b></li> </ul>	
<b>Governance Structure (Membership Composition)</b>	<ul style="list-style-type: none"> <li>• The Board of the Authority is to consist of the Chairman who may or may not be a public officer; the Chief Executive Officer; not more than 15 other members who are not public officers (including at least 5 members who, in the opinion of the Chief Executive, have knowledge of, or experience in, or exposure to, arts and cultural activities and at least one member who is a member of the</li> </ul>	<ul style="list-style-type: none"> <li>• The board shall consist of – <ul style="list-style-type: none"> <li>(a) a chairperson;</li> <li>(b) a deputy chairperson;</li> <li>(c) no more than 7 other directors.</li> </ul> </li> <li>• <b>(c.f. section 18 of the Victorian Urban Development Authority Act 2003)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The board consists of the following members- <ul style="list-style-type: none"> <li>(a) a chairperson appointed on the Minister's nomination;</li> <li>(b) 2 members appointed on the council's (Brisbane City Council) nomination;</li> <li>(c) 7 other members, of whom 2 must be public service officers, appointed on the Minister's nomination.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The number of members of the Council shall not be less than 10 nor more than 14. The Council shall consist of- <ul style="list-style-type: none"> <li>(a) the Chairperson;</li> <li>(b) the Chairperson of each Board;</li> <li>(c) ...such number of persons who practise or have practised the arts or are otherwise associated with the arts as the Minister thinks fit; and</li> </ul> </li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	Legislative Council); and 3 other members who are public officers. • <b>(c.f. section 6 of the Bill)</b>		• <b>(c.f. section 10(1) of the South Bank Corporation Act 1989)</b>	(d) ...such number of community interest representatives as the Minister thinks fit. • At least one of the members of the Council must be a community interest representative. • <b>(c.f. section 9 of the Australia Council Act 1975)</b>
<b>Governance Structure (Appointment Mechanism)</b>	<ul style="list-style-type: none"> <li>• All Board members (other than the Chief Executive Officer) are to be appointed by the Chief Executive.</li> <li>• The Chief Executive Officer is to be appointed by the Authority with the prior approval of the Chief Executive and is an ex-officio member of the Board.</li> <li>• <b>(c.f. section 6 of the Bill)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The chairperson, deputy chairperson and other directors of the Authority shall be appointed by the Governor in Council.</li> <li>• <b>(c.f. section 19(1) of the Victorian Urban Development Authority Act 2003)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The members are to be appointed by the Governor in Council. The chairperson must not be a public service officer.</li> <li>• <b>(c.f. sections 10(3) and (4) of the South Bank Corporation Act 1989)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The members of the Council, other than the Chairperson and the Chairperson of each Board, are to be appointed by the Minister. The Chairperson is to be appointed by the Governor-General.</li> <li>• <b>(c.f. sections 9(2A) and (3) of the Australia Council Act 1975)</b></li> </ul>
<b>Mode of Operation</b>	<ul style="list-style-type: none"> <li>• A Board of the Authority is established and it is the governing and executive body of the Authority.</li> <li>• <b>(c.f. sections 6(1) and (2) of the Bill)</b></li> <li>• The Board may, for the purpose of performing any of the functions of the Authority, establish such committee as the Board considers necessary or expedient to deal with matter.</li> <li>• <b>(c.f. section 9 of the Bill)</b></li> <li>• The Authority may appoint the Chief Executive Officer (with the prior approval of the Chief Executive) and</li> </ul>	<ul style="list-style-type: none"> <li>• There shall be a board of directors of the Authority. The Board is responsible for the management of the affairs of the Authority and may exercise the powers of the Authority.</li> <li>• <b>(c.f. section 17 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The board, with the approval of the Minister, may appoint a person as the chief executive of the Authority.</li> <li>• <b>(c.f. section 22 of the Victorian Urban Development Authority Act 2003)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The corporation must have a board of directors. The board of directors is the corporation's governing body and is called the South Bank Corporation Board.</li> <li>• <b>(section 9 of the South Bank Corporation Act 1989)</b></li> <li>• The corporation shall recommend to the Minister the appointment of a corporation manager who shall be responsible for the management of the affairs of the corporation to and in accordance with the directions of the corporation.</li> <li>• The Governor in Council may</li> </ul>	<ul style="list-style-type: none"> <li>• There shall be a General Manager of the Council who shall be appointed by the Minister.</li> <li>• The General Manager of the Council shall, subject to and in accordance with the directions of the Council, conduct the affairs of the Council.</li> <li>• <b>(c.f. sections 19A of the Australia Council Act 1975)</b></li> <li>• The Council may appoint committees to assist the Council in the performance of its functions or the exercise of its powers.</li> <li>• The Council may appoint Committees to assist a Board in the</li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>its employees.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. sections 7 and 10 of the Bill)</b></li> <li>• The Authority shall manage its finances with due care and diligence and ensure the financial sustainability of the operation and management of arts and cultural facilities, related facilities and ancillary facilities.</li> <li>• <b>c.f. section 19(2) of the Bill)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The board may establish sub-committees, whether of its directors or not.</li> <li>• <b>(c.f. section 26 of the Victorian Urban Development Authority Act 2003)</b></li> </ul>	<ul style="list-style-type: none"> <li>• appoint the corporation manager. <b>(c.f. section 13 of the South Bank Corporation Act 1989)</b></li> <li>• The corporation may establish committees to help or advise it.</li> <li>• <b>(c.f. section 31 of the South Bank Corporation Act 1989)</b></li> </ul>	<p>performance of the Board's functions or the exercise of the Board's powers.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 17A of the Australia Council Act 1975)</b></li> <li>• The Minister may, by notice published in the Gazette, establish: <ul style="list-style-type: none"> <li>(a) a single co-ordinating Board; and</li> <li>(b) such number of other Boards as he or she thinks fit; and name those Boards as he or she thinks fit.</li> </ul> </li> <li>• <b>(c.f. section 20 of the Australia Council Act 1975)</b></li> </ul>
<b>Funding Arrangement</b>	<ul style="list-style-type: none"> <li>• The resources of the Authority consist of- <ul style="list-style-type: none"> <li>(a) all moneys paid by the Government to the Authority, whether by way of appropriation by the Legislative Council, loan or any other means;</li> <li>(b) all moneys provided by any person other than the Government to the Authority, whether by way of loan or any other means;</li> <li>(c) income received by the Authority by operating or managing arts and cultural facilities, related facilities or ancillary facilities; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The Authority must establish and keep a fund called the General Fund. There shall be paid to the General Fund – <ul style="list-style-type: none"> <li>(a) all money received by the Authority, or on its behalf, in respect of, or in connection with, the carrying out of its functions or powers under the Act, except any function or power relating to a declared project;</li> <li>(b) all income from the investment of money in the General Fund and the proceeds of sale of any such investment;</li> <li>(c) all other money that the Authority receives for payment</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The corporation shall enter into an agreement with the Brisbane City Council with respect to the payment of moneys instead of the payment of rates in respect of land owned by the corporation.</li> <li>• <b>(c.f. section 92 of the South Bank Corporation Act 1989)</b></li> </ul>	<ul style="list-style-type: none"> <li>• There are payable to the Council such moneys as are appropriated by the Parliament for the purposes of the Council.</li> <li>• <b>(c.f. section 32(1) of the Australia Council Act 1975)</b></li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>(d) all other moneys and property, including gifts, sponsorships, donations, interest, profits, dividends and investment income, received by the Authority.</p> <ul style="list-style-type: none"> <li>• (c.f. section 19 of the Bill)</li> </ul>	<p>into the General Fund.</p> <ul style="list-style-type: none"> <li>• (c.f. section 62 of the Victorian Urban Development Authority Act 2003)</li> <li>• The Authority must establish and keep a fund called the Project Fund.</li> <li>• There shall be paid to the Project Fund – <ul style="list-style-type: none"> <li>(a) all money received by the Authority, or on its behalf, in respect of, or in connection with, the carrying out of its functions or powers under this Act relating to a declared project;</li> <li>(b) all income from the investment of money in the Project Fund and the proceeds of sale of any such investment;</li> <li>(c) all other money that the Authority receives for payment into the Project Fund.</li> </ul> </li> <li>• (c.f. section 63 of the Victorian Urban Development Authority Act 2003)</li> </ul>		
<b>Consultation Mechanism</b>	<ul style="list-style-type: none"> <li>• The Authority shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public at such time and in such manner as it considers appropriate.</li> <li>• In preparing a development plan, the</li> </ul>	<ul style="list-style-type: none"> <li>• The board must prepare a corporate plan for each financial year.</li> <li>• The board must give a copy of the proposed plan to the Minister and the Treasurer on or before 31 May in each year.</li> <li>• The board must consider any comments on the proposed plan that are made to it by the Minister or the</li> </ul>	<ul style="list-style-type: none"> <li>• The corporation shall, after consultation with the council (Brisbane City Council) and having regard to any recommendations made by the council during the consultation, prepare a draft development plan for the corporation area and shall submit it to the Minister.</li> </ul>	<ul style="list-style-type: none"> <li>• Not mentioned.</li> </ul>



	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>Authority shall consult the public at such time and in such manner as it considers appropriate.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. sections 17 and 18(3)(a) of the Bill)</b></li> </ul>	<p>Treasurer within 2 months after the plan was submitted to the Minister and the Treasurer.</p> <ul style="list-style-type: none"> <li>• The board must consult in good faith with the Minister and the Treasurer following communication to it of the comments, make such changes to the plan as are agreed between the Minister, the Treasurer and the board and must deliver the completed plan to the Minister and the Treasurer within 2 months after the commencement of the financial year.</li> <li>• <b>(c.f. section 57 of the Victorian Urban Development Authority Act 2003)</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>(c.f. section 32 of the South Bank Corporation Act 1989)</b></li> <li>• Where the Minister approves the draft development plan, with or without amendment, the corporation shall, by advertisement published in a newspaper circulating in the City of Brisbane, give public notice that the plan is available for public inspection during normal working hours at the office of the corporation for a period of not less than 30 days from a date specified in such notice.</li> <li>• During the period of public inspection of the draft development plan, any person or organization may make a submission on any matter concerning the draft development plan.</li> <li>• <b>(c.f. section 33 of the South Bank Corporation Act 1989)</b></li> <li>• The corporation shall, after consideration of the submissions made to it in relation to the draft development plan, and any other matters it deems appropriate, prepare, after consultation with the council, a report to the Minister on the submissions, which shall include the corporation's consideration of the submissions and any other relevant matters, which shall accompany a revised development plan for the corporation area.</li> </ul>	

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
			<ul style="list-style-type: none"> <li>• (c.f. section 34 of the South Bank Corporation Act 1989)</li> <li>• If the corporation, after consultation with the council, is of the opinion that it is necessary or desirable that the approved development plan be amended, it shall submit the proposed amendment to the Minister.</li> <li>• (c.f. section 35 of the South Bank Corporation Act 1989)</li> </ul>	
<b>Procedure and Manner of Meeting</b>	<ul style="list-style-type: none"> <li>• The Board may regulate its own proceedings and business relating to any Board meeting. The committee established under the Board may regulate its own administration, proceedings and business in such manner as it considers appropriate.</li> <li>• (c.f. section 9(8) of the Bill and section 17 of the Schedule to the Bill)</li> </ul>	<ul style="list-style-type: none"> <li>• Meetings of the board shall be held at such times and places as the board determines.</li> <li>• The Board may regulate its own proceedings.</li> <li>• (c.f. sections 25(1) and (6) of the Victorian Urban Development Authority Act 2003)</li> </ul>	<ul style="list-style-type: none"> <li>• The Board may conduct its business (including its meetings) in the way it considers appropriate.</li> <li>• (c.f. section 6 of Schedule 1 of the South Bank Corporation Act 1989)</li> <li>• Meetings of the board are to be held at the times and places it decides.</li> <li>• (c.f. section 7 of Schedule 1 of the South Bank Corporation Act 1989)</li> </ul>	<ul style="list-style-type: none"> <li>• The Council shall hold such meetings as are necessary for the performance of its functions.</li> <li>• (c.f. section 17 of the Australia Council Act 1975)</li> </ul>
<b>Accountability Measures and Safeguard of Public Interest</b>	<ul style="list-style-type: none"> <li>• The Authority shall appoint an auditor to audit the statement of accounts.</li> <li>• (c.f. section 26 of the Bill)</li> <li>• The Authority shall establish the Audit Committee to consider such matters relating to the financial affairs of the Authority and to conduct an audit.</li> <li>• (c.f. section 8 of the Bill)</li> <li>• The Director of Audit may conduct</li> </ul>	<ul style="list-style-type: none"> <li>• The Authority is subject to the general direction and control of the Minister.</li> <li>• The Authority is subject to any specific direction given to it by the Minister with the approval of the Treasurer.</li> <li>• (c.f. section 9 of the Victorian Urban Development Authority Act 2003)</li> <li>• If a director of the Authority has a direct or indirect pecuniary interest</li> </ul>	<ul style="list-style-type: none"> <li>• In seeking to carry out its objects, functions, powers and duties, the corporation shall endeavor to achieve the maximum prudent financial return from such activity.</li> <li>• (c.f. section 96 of the South Bank Corporation Act 1989)</li> <li>• The corporation must develop and adopt a budget for each financial year.</li> <li>• The budget must be given to the Minister for the Minister's approval</li> </ul>	<ul style="list-style-type: none"> <li>• Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may by notice to the Chairperson give directions to the Council with respect to the performance of its functions or the exercise of its powers.</li> <li>• The Council must comply with a direction.</li> <li>• (c.f. section 6B of the Australia Council Act 1975)</li> <li>• A member of a Board who has a</li> </ul>

	West Kowloon Cultural District Authority	Victorian Urban Development Authority	South Bank Corporation	Australia Council
	<p>an examination into the economy, efficiency and effectiveness with which the Authority has expended its resources in performing its functions.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 27 of the Bill)</b></li> <li>• The Chief Executive in Council may, if he considers the public interest so requires, give such directions in writing to the Authority as he considers appropriate.</li> <li>• The Authority shall comply with any direction given by the Chief Executive in Council.</li> <li>• <b>(c.f. section 13 of the Bill)</b></li> <li>• The Authority shall keep proper accounts and records of its transactions. It shall ensure that a statement of accounts is prepared within 3 months after the end of each financial year.</li> <li>• The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary a copy of its annual report, statement of accounts and auditor's report. The Financial Secretary shall cause the documents received to be laid on the table of the Legislative Council.</li> <li>• <b>(c.f. sections 25 and 31 of the Bill)</b></li> <li>• A Board member or a committee member shall, upon his first appointment and on such occasion as the circumstances may require after</li> </ul>	<p>in a matter being considered, and the interest could conflict with the proper performance of his duties in relation to the consideration of the matter, the director must disclose the nature of the interest at a meeting of the board.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 29 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The powers of the Authority do not include a power, whether directly or indirectly – <ul style="list-style-type: none"> <li>(a) to make a loan to a director of the Authority, a spouse of such a director, or a relative (as defined in the Corporations Act) of such a director or spouse; or</li> <li>(b) to give a guarantee or provide security in connection with a loan made or to be made by another person to a director, spouse or relative referred to in paragraph (a).</li> </ul> </li> <li>• <b>(c.f. section 32 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The board must prepare a corporate plan for each financial year.</li> <li>• The board must give a copy of the proposed plan to the Minister and the</li> </ul>	<p>within the time the Minister directs.</p> <ul style="list-style-type: none"> <li>• Each change must be given to the Minister for the Minister's approval.</li> <li>• The corporation must comply with its budget.</li> <li>• <b>(c.f. section 97 of the South Bank Corporation Act 1989)</b></li> <li>• If a member has a direct or indirect interest in an issue being considered, or about to be considered, by the board, the member must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the member's knowledge.</li> <li>• The disclosure must be recorded in the board's minutes.</li> <li>• <b>(c.f. section 14 of Schedule 1 of the South Bank Corporation Act 1989)</b></li> <li>• A member who has a material personal interest in an issue being considered by the board must not vote on the issue.</li> <li>• <b>(c.f. section 15 of Schedule 1 of the South Bank Corporation Act 1989)</b></li> </ul>	<p>direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall disclose the nature of the interest at a meeting of the Board.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 31 of the Australia Council Act 1975)</b></li> <li>• The annual report on the Council... must also include: <ul style="list-style-type: none"> <li>(a) particulars of all matters specified by the Minister...during the year to which the reports relates; and</li> <li>(b) the text of all directions... during the year to which the report relates.</li> </ul> </li> <li>• The minister must cause any report or financial statements given by the members of the Council to the Minister... to be tabled in each House of the Parliament as soon as practicable.</li> <li>• <b>(c.f. section 38 of the Australia Council Act 1975)</b></li> </ul>

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>the appointment, disclose to the Authority his interest. The Authority shall establish and maintain a register relating to any disclosure for inspection by the public.</p> <ul style="list-style-type: none"> <li>• The Authority may, for the purposes of this section determine the class or description of the interest required to be disclosed, determine the details of the interest required to be disclosed and the manner in which such interest is to be disclosed.</li> <li>• The Authority shall establish and maintain a register relating to any disclosure required to be made at its principal office and the Authority shall make available the register for inspection by the public at any reasonable time.</li> <li>• <b>(c.f. section 34 of the Bill)</b></li> <li>• The Authority shall, before the end of each financial year, send to the Secretary for Home Affairs for record purpose a corporate plan of the Authority for a period of 3 years beginning on the first day of the next financial year covering in relation to that period a programme of activities and projects that the Authority proposes to conduct or implement; a financial plan including the projected revenue and expenditure, any proposed investment, any proposed loan and the purpose of taking out the loan, the amount and repayment</li> </ul>	<p>Treasurer on or before 31 May in each year.</p> <ul style="list-style-type: none"> <li>• The proposed corporate plan must be in or to the effect of a form approved by the Minister and the Treasurer and must include- <ul style="list-style-type: none"> <li>(a) a statement of corporate intent...;</li> <li>(b) a business plan containing such information as the Minister or the Treasurer requires;</li> <li>(c) financial statements containing such information as the Treasurer requires.</li> </ul> </li> <li>• <b>(c.f. section 57 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The Minister or the Treasurer may, in writing, require the board to give the Minister or the Treasurer such information as the Minister or the Treasurer requires.</li> <li>• <b>(c.f. section 68 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The Authority, in its annual report for a financial year..., must include- <ul style="list-style-type: none"> <li>(a) a copy of each direction given to it during that year... together with a statement of its response to the direction; and</li> <li>(b) a copy of the statement of</li> </ul> </li> </ul>		

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>schedule involved (if any), and the staffing requirement, of the Authority.</p> <ul style="list-style-type: none"> <li>• The Authority shall, before the end of each financial year, send to the Secretary for Home Affairs for record purpose a business plan of the Authority for the next financial year covering in relation to that year details of the activities and projects that are to be conducted or implemented under the corporate plan; resources required to conduct or implement such activities and projects; details of the financial plan including the estimated revenue and expenditure; any proposed loan (including allowances for interest payments); and the staffing requirement.</li> <li>• <b>(c.f. sections 29 and 30 of the Bill)</b></li> <li>• The Chief Executive may require the Authority to furnish to him such information relating to its affairs or activities as may be specified by him.</li> <li>• <b>(c.f. section 14 of the Bill)</b></li> <li>• The Financial Secretary may require the Authority to furnish to him such information relating to its financial affairs as may be specified by him.</li> <li>• <b>(c.f. section 15 of the Bill)</b></li> <li>• The Authority shall manage its</li> </ul>	<p>corporate intent last completed.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 69 of the Victorian Urban Development Authority Act 2003)</b></li> <li>• The Authority must, as far as practicable make sure that by the end of its involvement in the development of the docklands area, it has secured a prudent financial return on its overall commercial investment in the area.</li> <li>• <b>(c.f. section 11(1) of Docklands Act 1991)</b></li> </ul>		

	<b>West Kowloon Cultural District Authority</b>	<b>Victorian Urban Development Authority</b>	<b>South Bank Corporation</b>	<b>Australia Council</b>
	<p>finances with due care and diligence and ensure the financial sustainability of the operation and management of arts and cultural facilities, related facilities and ancillary facilities.</p> <ul style="list-style-type: none"> <li>• <b>(c.f. section 19 of the Bill)</b></li> <li>• The Chairman and the Chief Executive Officer shall upon request by the Legislative Council attend the Council's meeting and answer questions raised by the Members of the Legislative Council at the meetings.</li> <li>• <b>(c.f. section 16 of the Bill)</b></li> <li>• The Authority, its committees and body corporate it established (including subsidiary companies), trusts and non-profit making organizations are incorporated into Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201), so that members of the Authority are to be governed by related clauses in Cap. 201. The Authority is added into Part 1 of Schedule 1 to The Ombudsman Ordinance (Cap. 397), so that the Authority will be put under the Ombudsman's scrutiny.</li> <li>• <b>(c.f. sections 38 and 39 of the Bill)</b></li> </ul>			



# **Australia Council Act 1975**

## **Act No. 11 of 1975 as amended**

This compilation was prepared on 6 November 2001  
taking into account amendments up to Act No. 159 of 2001)

The text of any of those amendments not in force  
on that date is appended in the Notes section

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra





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# **An Act to establish a Council for Purposes connected with the Promotion of the Arts, and to make Provision for related Matters**

## **Part I—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Australia Council Act 1975*.

### **2 Commencement** [see Note 1]

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

### **3 Interpretation**

In this Act, unless the contrary intention appears:

**arts** includes creative and interpretative expression through theatre, literature, music, visual arts, film and crafts.

**Board** means a Board established under this Act and includes a co-ordinating Board.

**Committee** means a Committee appointed under section 17A.

**community interest representative** means a person who:

- (a) in the Minister's opinion, understands the interests of the general community in relation to the arts; and
- (b) is not a professional artist.

**Council** means the Council established by this Act.

**General Manager** means the General Manager of the Council appointed under section 19A.

**professional artist** means a person who practises one or more of the arts as a profession.

## **Part II—Establishment, functions and powers of the Council**

### **4 Establishment of Council**

There is established by this Act a Council by the name of the Australia Council.

### **5 Functions of Council**

The functions of the Council are:

- (a) to formulate and carry out policies designed:
  - (i) to promote excellence in the arts;
  - (ii) to provide, and encourage the provision of, opportunities for persons to practise the arts;
  - (iii) to promote the appreciation, understanding and enjoyment of the arts;
  - (iv) to promote the general application of the arts in the community;
  - (v) to foster the expression of a national identity by means of the arts;
  - (vi) to uphold and promote the right of persons to freedom in the practice of the arts;
  - (vii) to promote the knowledge and appreciation of Australian arts by persons in other countries;
  - (viii) to promote incentives for, and recognition of, achievement in the practice of the arts; and
  - (ix) to encourage the support of the arts by the States, local governing bodies and other persons and organizations;
- (c) to furnish advice to the Government of the Commonwealth, either of its own motion or upon request made to it by the Minister, on matters connected with the promotion of the arts or otherwise relating to the performance of its functions; and
- (d) to do anything incidental or conducive to the performance of any of the foregoing functions.

**6 Powers of Council**

- (1) Subject to this Act, the Council has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, has power:
  - (a) to enter into contracts;
  - (b) to erect buildings;
  - (c) to occupy, use and control any land or building owned or held under lease by Australia and made available for the purposes of the Council;
  - (d) to acquire, hold and dispose of real or personal property;
  - (e) to accept gifts, devises and bequests made to the Council, whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Council upon trust;
  - (f) to make grants or loans of money, and to provide scholarships or other benefits, on such conditions as it thinks fit;
  - (g) to co-operate with the States and local governing bodies and with other persons and organizations concerned with the arts; and
  - (h) to do anything incidental to any of its powers.
- (2) Notwithstanding anything contained in this Act, any moneys or property vested in the Council upon trust shall be dealt with in accordance with the powers and duties of the Council as trustee.
- (3) The Council may perform its functions and exercise its powers outside Australia for the benefit of Australia or Australians.

**6A Matters to be taken into account by Council**

The Council must, in the performance of its functions and the exercise of its powers, have regard to:

- (a) the policies of the Commonwealth Government in relation to the arts;
- (b) the policies of State Governments, and of local governing bodies, in relation to the arts, so far as it is practicable to do so; and
- (c) such other matters, if any, as the Minister specifies by notice in writing to the Chairperson.

Section 6B

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**6B Directions by Minister**

- (1) Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Chairperson, give directions to the Council with respect to the performance of its functions or the exercise of its powers.
- (2) The Council must comply with a direction under subsection (1).
- (3) The Minister must cause a copy of each direction to be laid before each House of the Parliament within 21 sitting days of the House after the direction is given.
- (4) Nothing in this section authorises the Minister to give a direction to the Council in relation to the making of a decision by the Council in a particular case, being a decision relating to the making of a grant, the lending of money or the provision of a scholarship or other benefit.

**7 Delegation**

- (1) Subject to any direction of the Minister, the Council may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate any of its functions and any of its powers under this Act (other than this power of delegation or the power to appoint Committees) to:
  - (a) a Board;
  - (b) the Chairperson of the Council;
  - (c) the Deputy Chairperson of the Council;
  - (d) a Committee;
  - (e) the General Manager; or
  - (f) an officer or employee appointed or engaged, as the case may be, under section 41.
- (2) Where the Council delegates a function or power to a Committee, the Council shall from time to time give such general directions to the Committee with respect to the performance of the function or the exercise of the power as the Council thinks necessary to ensure the carrying out of the policies of the Council, and the Committee shall comply with those directions.

- (3) A function or power delegated under this section, when performed or exercised by the delegate, shall, for the purposes of this Act, be deemed to have been performed or exercised by the Council.
- (4) A delegation under this section does not prevent the performance of a function or the exercise of a power by the Council.

## **Part III—Constitution and meetings of the Council**

### **8 Incorporation of Council**

- (1) The Council:
  - (a) is a body corporate, with perpetual succession;
  - (b) shall have a common seal; and
  - (c) may sue and be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Council. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to a document and assume that it was duly affixed.

### **9 Membership of Council**

- (1) The number of members of the Council shall be not less than 10 nor more than 14.
- (2) Subject to subsection (4B), the Council shall consist of:
  - (a) the Chairperson;
  - (b) the Chairperson of each Board;
  - (c) subject to subsections (1) and (4), such number of persons who practise or have practised the arts or are otherwise associated with the arts as the Minister thinks fit; and
  - (d) subject to subsections (1) and (3B), such number of community interest representatives as the Minister thinks fit.
- (2A) The members of the Council, other than the Chairperson and the members referred to in paragraph (2)(b), are to be appointed by the Minister.
- (3) The Chairperson is to be appointed by the Governor-General.
- (3A) Subject to subsection (4A), the members of the Council hold office on a part-time basis.



- (3B) At least one of the members of the Council must be a community interest representative.
- (4) In appointing members of the Council referred to in paragraph (2)(e), the Minister shall endeavour to ensure that:
  - (a) a majority of the members holding office pursuant to that paragraph are persons who practise or have practised the arts; and
  - (b) the membership of the Council includes a reasonable balance of persons who practise or have practised the various arts.
- (4A) The Chairperson may be appointed either as a full-time member or as a part-time member.
- (4B) In the event that the Chairperson is a part-time member, the person from time to time holding, or performing the duties of, the office of General Manager is, *ex officio*, a member of the Council.
- (5) The performance of the functions or the exercise of the powers of the Council is not affected by reason only of:
  - (a) there being a vacancy or vacancies in the membership of the Council; or
  - (b) the number of members of the Council falling below 10 for a period of not more than 6 months.

## **10 Deputy Chairperson**

- (1) The Minister may appoint a member of the Council, other than the Chairperson or the General Manager, to be the Deputy Chairperson of the Council.
- (2) A person appointed under this section holds office as Deputy Chairperson until the expiration of the person's period of appointment as a member or until the person sooner ceases to be a member.
- (3) Where a member appointed as Deputy Chairperson is, upon ceasing to be Deputy Chairperson by virtue of the expiration of the period of his or her appointment as a member, re-appointed as a member, he or she is eligible for re-appointment as Deputy Chairperson.

## Section 11

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- (4) The Deputy Chairperson may resign the office of Deputy Chairperson by writing signed and delivered to the Minister.

### **11 Term of office**

- (1) Subject to this Act, a member of the Council appointed under paragraph 9(2)(a), (e) or (f) holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A person shall not hold office under one or more of the provisions referred to in subsection (1) for a continuous period exceeding 6 years.
- (3) A person who has held office under one or more of the provisions referred to in subsection (1) for a continuous period of 6 years is not eligible to be again appointed under any of those provisions for a term of office commencing within 2 years after the expiration of that period.
- (4) For the purposes of the application of subsection (3) in relation to the eligibility of a person for appointment or re-appointment as the Chairperson of the Council, any period of service by that person as a member of the Council otherwise than as Chairperson shall be disregarded.
- (4B) A member of the Council holding office under paragraph 9(2)(b) holds office until he or she ceases to be the Chairperson of the relevant Board.

### **12 Leave of absence**

- (1) A full-time Chairperson has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time Chairperson leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

**13 Resignation**

- (1) The Chairperson may resign by giving a written notice of resignation to the Governor-General.
- (2) Any other member of the Council (other than a member referred to in paragraph 9(2)(b)) may resign by giving a written notice of resignation to the Minister.

**14 Termination of appointment**

- (1) The appropriate authority may terminate the appointment of a member of the Council by reason of misbehaviour or physical or mental incapacity.
- (2) If:
  - (a) a member of the Council:
    - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
    - (ii) fails without reasonable excuse to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;
  - (b) a full-time Chairperson of the Council:
    - (i) engages, without the consent of the Minister, in any paid employment outside the duties of his or her office; or
    - (ii) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or
  - (c) a part-time member of the Council is, except with the permission of the Council, absent from 3 consecutive meetings of the Council;the appropriate authority shall terminate the appointment of that member.
- (2A) The Governor-General is the appropriate authority in the case of the Chairperson.

## Section 15

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(2B) The Minister is the appropriate authority in the case of any other member of the Council.

(3) In this section:

*member of the Council* does not include:

- (a) a member referred to in paragraph 9(2)(b); or
- (b) the General Manager.

### **15 Acting Chairperson**

(1) Subject to subsection (2), the Minister may appoint a person (who may be a member of the Council) to act as Chairperson of the Council during a vacancy in the office of Chairperson.

(2) A person appointed under subsection (1) to act as Chairperson shall not continue so to act for more than 12 months.

(3) During any period when there is neither a Chairperson nor a person appointed under subsection (1) or when the Chairperson or the person appointed under subsection (1) is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office of Chairperson:

- (a) the Deputy Chairperson shall act as Chairperson; or
- (b) if there is no Deputy Chairperson or the Deputy Chairperson is not available to act as Chairperson, the Minister may appoint a member of the Council to act as Chairperson, but any such appointment ceases to have effect when the circumstances giving rise to that appointment cease.

(4) The Minister may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and
- (b) at any time terminate such an appointment.

(5) The appointment of a person under this section ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

(6) At any time when a person is acting as Chairperson in accordance with this section, the person has, and may exercise, all the powers

and shall perform all the functions of the Chairperson and, if the person is not a member of the Council, shall be deemed to be a member of the Council for the purposes of subsections 17(4) and (7) of this Act and sections 27F to 27L of the *Commonwealth Authorities and Companies Act 1997*.

- (7) The validity of anything done by a person acting as Chairperson in accordance with this section shall not be called in question on the grounds that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

## **16 Deputies**

- (1) A member of the Council, being the Chairperson of a Board, may, with the approval of the Minister, appoint a member of the board to be his or her deputy.
- (3) A member of the Council referred to in subsection (1) may revoke the appointment of a person as his or her deputy, but the revocation is not effective until the member has given notice of it by writing signed by the member and delivered to the Minister.
- (4) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Council, to attend that meeting and, when so attending, shall be deemed to be the member of whom he or she is the deputy.
- (5) A person appointed under this section, other than a person appointed or engaged under the *Public Service Act 1999* or an officer or member of an authority of Australia, shall be paid such remuneration and allowances as are determined by the Minister.

## **17 Meetings**

- (1) The Council shall hold such meetings as are necessary for the performance of its functions.
- (2) The meetings shall be convened by the Chairperson.
- (3) Where the Minister requests the Chairperson to do so, the Chairperson shall forthwith convene a meeting.

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- (4) At a meeting a quorum is constituted by a majority of the members of the Council for the time being holding office.
- (5) The Chairperson shall preside at all meetings at which he or she is present.
- (6) If the Chairperson is not present at a meeting, the members present shall elect one of their number to preside at the meeting.
- (7) Questions arising at a meeting shall be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) In relation to a time when a person is acting as Chairperson, references in this section to the Chairperson shall be read as references to that person.
- (10) If the Council so determines, a member of the Council may participate in, and form part of a quorum at, a meeting of the Council by means of any of the following methods of communication:
  - (a) telephone;
  - (b) closed circuit television;
  - (c) another method of communication determined by the Council.
- (11) A determination of the Council under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Council.
- (12) A member of the Council who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting.
- (13) If the Council so determines, a resolution must be taken to have been passed at a meeting of the Council if, without meeting, a majority of the number of members who would, if present at a meeting of the Council and entitled to vote on the resolution at that meeting, have constituted a quorum of the Council indicate agreement with the resolution in accordance with the method determined by the Council.

**17A Committees**

- (1) The Council may appoint Committees to assist the Council in the performance of its functions or the exercise of its powers.
- (2) The Council may appoint Committees to assist a Board in the performance of the Board's functions or the exercise of the Board's powers.
- (3) A Committee consists of such persons as the Council thinks fit.
- (4) The Council may from time to time give directions to a Committee that has been appointed to assist a Board in relation to the assistance to be given to the Board.
- (5) A Board may from time to time give directions to a Committee that has been appointed to assist it in relation to the assistance to be given to the Board.
- (6) Where inconsistent directions are given to a Committee by the Council and a Board in relation to a particular matter, the Committee must act in accordance with the directions of the Council.
- (7) If a Committee so determines, a member of the Committee may participate in, and form part of a quorum at, a meeting of the Committee by means of any of the following methods of communication:
  - (a) telephone;
  - (b) closed circuit television;
  - (c) another method of communication determined by the Committee.
- (8) A determination by a Committee under subsection (7) may be made in respect of a particular meeting, or in respect of all meetings, of the Committee.
- (9) If a Committee so determines, a resolution must be taken to have been passed at a meeting of the Committee if, without meeting, a majority of the number of members who would, if present at a meeting of the Committee and entitled to vote on the resolution at that meeting, have constituted a quorum of the Committee indicate

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agreement with the resolution in accordance with the method  
determined by the Committee.



## **Part IIIA—The General Manager of the Council**

### **19A General Manager**

- (1) There shall be a General Manager of the Council who shall be appointed by the Minister.
- (2) The General Manager shall, subject to and in accordance with the directions of the Council, conduct the affairs of the Council.
- (3) The General Manager holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Minister.

### **19B Period of appointment of General Manager**

- (1) The General Manager shall be appointed for such period not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

### **19C Leave of absence**

- (1) The General Manager has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Council may grant to the General Manager leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Council determines.

### **19D Resignation of General Manager**

The General Manager may resign the office of General Manager by writing signed by the General Manager and delivered to the Minister, but the resignation does not have effect until accepted by the Minister.

### **19E Acting General Manager**

- (1) The Minister may appoint a person to act as General Manager:

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- (a) during a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the General Manager is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office of General Manager;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Minister may:
  - (a) determine the terms and conditions of appointment, including remuneration and allowances, of an acting General Manager; and
  - (b) at any time terminate such an appointment.
- (3) Where a person is acting as General Manager in accordance with paragraph (1)(b) and the office of General Manager becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled, or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of an acting General Manager ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.
- (5) At any time when a person is acting as General Manager in accordance with this section, the person has, and may exercise, all the powers and shall perform all the functions of the General Manager.
- (6) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

**19F Termination of office**

- (1) The Minister may terminate the appointment of the General Manager for misbehaviour or physical or mental incapacity.

(2) If the General Manager:

- (a) engages in paid employment outside the duties of the office of General Manager without the approval of the Minister;
- (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;
- (c) is absent, except on leave granted by the Council or with the approval of the Council, from 3 consecutive meetings of the Council;
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) fails without reasonable excuse to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;

the Minister shall terminate the appointment of the General Manager.

## Part IV—Boards

### 20 Establishment of Boards

- (1) For the purposes of this Act, the Minister may, by notice published in the *Gazette*, establish:
  - (a) a single co-ordinating Board; and
  - (b) such number of other Boards as he or she thinks fit; and name those Boards as he or she thinks fit.
- (2) The Minister may, by notice published in the *Gazette*, revoke the notice under subsection (1) by which a Board was established.
- (3) A notice under subsection (2) shall take effect on a date specified in the notice, not being a date earlier than the date of publication of the notice.
- (4) Where a notice under subsection (2) is published in the *Gazette*, then, on the day on which the notice takes effect:
  - (a) the Board to which the notice relates ceases to exist; and
  - (b) the members of the Board cease to hold office as such members.

### 21 Functions and powers of Boards

- (1) A Board shall make such inquiries, and furnish to the Council such reports, in connexion with any matter referred to it by the Council as the Council directs.
- (2) A Board shall also have such functions and powers as are delegated to it under section 7.
- (3) The Council may, by writing under its common seal, give directions to a Board with respect to the exercise of its powers or the performance of its functions under subsection (1) or (2), including a direction requiring a Board to act, or refrain from acting, as specified in the direction with respect to a particular matter specified in the direction.

**22 Membership of Boards**

- (1) The co-ordinating Board must consist of a Chairperson and not fewer than 4, nor more than 12, other members.
- (2) A Board, other than the co-ordinating Board, must consist of a Chairperson and not fewer than 4, nor more than 8, other members.
- (2A) Subject to this section, the membership of the co-ordinating Board must comprise:
  - (a) such number as the Minister thinks fit of persons who practise or have practised the arts or are otherwise associated with the arts; and
  - (b) such number as the Minister thinks fit of community interest representatives.
- (3) A majority of the members of a Board for the time being shall be persons who practise the arts or are otherwise associated with the arts.
- (3A) At least one of the members of each Board must be a community interest representative.
- (3B) A member of the Council, or of a Board established under paragraph 20(1)(b), may be appointed as a member of the co-ordinating Board.
- (4) The members of a Board shall be appointed by the Minister, and shall be part-time members.
- (5) A Board shall from time to time publicly advertise, in such manner as it determines, for persons who wish to be appointed as members of the Board to submit their names for consideration, and shall at all times maintain a list of names so submitted.
- (6) In selecting persons to be appointed as members of a Board, the Minister must give consideration to:
  - (a) any recommendations made by the Council;
  - (b) the list of names maintained by the Board; and
  - (c) any recommendations from that list made by the Board.

## Section 23

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- (7) Paragraphs (6)(b) and (c) do not apply in relation to the first appointment after the establishment of a Board of the minimum number of members required by subsection (1) or (2), as the case may be.
- (8) The performance of the functions or the exercise of the powers of a Board is not affected by reason only of:
  - (a) there being a vacancy in the office of Chairperson of the Board; or
  - (b) the number of members of the Board falling below the minimum number required by subsection (1) or (2), as the case may be, for a period of not more than 6 months.

### **23 Term of office**

- (1) Subject to this Act, a member of a Board holds office for such period, not exceeding 4 years, as the Minister specifies in the instrument of appointment, but is eligible for re-appointment.
- (2) A member of a Board shall not hold office as a member of that Board for a continuous period exceeding 6 years.
- (3) A member of a Board who has held office as a member of that Board for a continuous period of 6 years is not eligible for re-appointment for a term of office commencing within 2 years after the expiration of that period.
- (4) For the purposes of the application of subsection (3) in relation to the eligibility of a person for appointment or re-appointment as the Chairperson of a Board, any period of service by that person as a member of that Board otherwise than as Chairperson shall be disregarded.

### **26 Resignation**

A member of a Board may resign the office of a member by writing signed by the member and delivered to the Minister.

### **27 Termination of office**

- (1) The Minister may remove a member of a Board from office:
  - (a) for misbehaviour or physical or mental incapacity;

- (b) if the member is absent, without the approval of the Board, from 3 consecutive meetings of the Board; or
  - (c) where the member of the Board is the Chairperson of the Board—if the member is absent, without the approval of the Council, from 3 consecutive meetings of the Council.
- (2) If a member of a Board fails without reasonable excuse to comply with section 31 of this Act or with section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*, the Minister shall terminate the appointment of the member.

## **28 Acting Chairperson**

- (1) The Minister may appoint a person to act as Chairperson of a Board:
  - (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or, for any reason, unable to perform the functions of the office of Chairperson;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Minister may:
  - (a) determine the terms and conditions of appointment, including remuneration and allowances, of an Acting Chairperson; and
  - (b) at any time terminate such an appointment.
- (3) Where a person is acting as Chairperson in accordance with paragraph (1)(b) and the office of Chairperson becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of an acting Chairperson ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

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- (5) At any time when a person is acting as Chairperson of a Board:
  - (a) the person has, and may exercise, all the powers and shall perform all the functions of the Chairperson;
  - (b) if the person is not a member of that Board, the person shall be deemed to be a member of that Board for the purposes of subsections 29(4) and (7) and section 31; and
  - (c) if the Chairperson is a member of the Council by virtue of an appointment under paragraph 9(2)(b)—the person acting as Chairperson shall be deemed to be such a member.
- (7) The validity of anything done by the Acting Chairperson shall not be called in question on the grounds that the occasion for the person's appointment had not arisen or that the appointment had ceased to have effect.

**29 Meetings**

- (1) A Board shall hold such meetings as are necessary for the performance of its functions.
- (2) The meetings of a Board shall be convened by the Chairperson of the Board.
- (3) Where the Council requests the Chairperson of a Board to do so, the Chairperson shall forthwith convene a meeting of the Board.
- (4) At a meeting of a Board a quorum is constituted by a majority of the members of the Board for the time being holding office.
- (5) The Chairperson of a Board shall preside at all meetings of the Board at which he or she is present.
- (6) If the Chairperson of a Board is not present at a meeting of the Board, the members present shall elect one of their number to preside at the meeting.
- (7) Questions arising at a meeting of a Board shall be determined by a majority of the votes of the members present and voting.
- (8) The person presiding at a meeting of a Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.



- (9) In relation to a time when a person is acting as Chairperson of a Board, references in this section to the Chairperson of that Board shall be read as references to that person.
- (10) If a Board so determines, a member of the Board may participate in, and form part of a quorum at, a meeting of the Board by means of any of the following methods of communication:
  - (a) telephone;
  - (b) closed circuit television;
  - (c) another method of communication determined by the Board.
- (11) A determination by a Board under subsection (10) may be made in respect of a particular meeting, or in respect of all meetings, of the Board.
- (12) A member of a Board who participates in a meeting as provided by subsection (10) is taken for the purposes of this Part to be present at the meeting.
- (13) If a Board so determines, a resolution must be taken to have been passed at a meeting of the Board if, without meeting, a majority of the number of members who would, if present at a meeting of the Board and entitled to vote on the resolution at that meeting, have constituted a quorum of the Board indicate agreement with the resolution in accordance with the method determined by the Board.

### **31 Disclosure of interest**

- (1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not:
  - (a) be present during any deliberation of the Board with respect to that matter; or
  - (b) take part in any decision of the Board with respect to that matter.

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**31A Delegation**

The Minister may, in writing, delegate any of the Minister's powers or functions under subsection 22(4) or subsection 27(1) or (2) to the Council.

## **Part V—Finance**

### **32 Moneys payable to Council**

- (1) There are payable to the Council such moneys as are appropriated by the Parliament for the purposes of the Council.
- (2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in subsection (1) are to be paid to the Council.

### **33 Application of moneys**

- (1) The moneys of the Council shall be applied only:
  - (a) in payment of amounts properly payable in the performance of its functions; and
  - (b) in payment of any remuneration and allowances payable to members of the Council or of a Board.
- (1A) Subsection (1) does not prevent investment of surplus money of the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (2) Notwithstanding anything contained in this Act, where a gift or bequest made to the Council is subject to conditions in relation to the purposes for which it is to be applied, the moneys paid to the Council as a result of the gift or bequest, and any income derived from the investment of those moneys, may be applied for those purposes and subject to those conditions, but not otherwise.

### **34 Contracts and borrowing**

- (1) The Council shall not, without the approval of the Minister:
  - (a) enter into a contract involving the payment or receipt of an amount exceeding \$250,000; or
  - (b) enter into a lease of land for a period exceeding 10 years.

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- (2) In subsection (1), “contract” does not include a contract entered into by the Council in the course of the exercise of its powers under paragraph 6(1)(f).
- (2A) Paragraph (1)(a) does not apply to the investment of money by the Council under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (3) The Council shall not borrow moneys from any person.

**36A Investment**

- (1) The Council may invest moneys in the course of the direct performance of its functions. The Council may also invest surplus money under section 18 of the *Commonwealth Authorities and Companies Act 1997*.
- (3) The Council shall not invest moneys otherwise than as mentioned in subsection (1).

**38 Extra reporting requirements**

- (1) The annual report on the Council under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:
  - (a) particulars of all matters specified by the Minister under paragraph 6A(c) during the year to which the report relates; and
  - (b) the text of all directions under sections 6B and 7 during the year to which the report relates.
- (2) The Minister must cause any report or financial statements given by the members of the Council to the Minister under paragraph 16(1)(b) of the *Commonwealth Authorities and Companies Act 1997* to be tabled in each House of the Parliament as soon as practicable.

**40 Taxation**

The Council is not subject to taxation under any law of Australia or of a State or Territory.

## **Part VI—Miscellaneous**

### **41 Staff**

- (1) The Council may appoint such officers or engage such employees as it thinks necessary for the purposes of this Act.
- (2) The terms and conditions of service or employment of persons so appointed or engaged (in respect of matters not provided for by this Act) shall be as determined from time to time by the Council.

### **41AA Remuneration for person holding more than one office**

- (1) Where a person (other than the General Manager) holds more than one specified office, that person is entitled to remuneration in respect of each of those offices.
- (2) In this section:

*specified office* means:

- (a) the office of a member of the Council; or
- (b) the office of a member of a Board.

### **41A Remuneration**

- (1) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed.
- (2) A person to whom this section applies shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) In this section, *person to whom this section applies* means:
  - (a) a member of the Council;
  - (b) a member of a Board;

Section 44

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- (c) a member of a Committee; or
- (d) the General Manager.

**44 Regulations**

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Table of Acts****Notes to the *Australia Council Act 1975*****Note 1**

The *Australia Council Act 1975* as shown in this compilation comprises Act No. 11, 1975 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australia Council Act 1975</i>	11, 1975	13 Mar 1975	13 Mar 1975	
<i>Australia Council Amendment Act 1976</i>	113, 1976	27 Oct 1976	27 Oct 1976	S. 21
<i>Administrative Changes (Consequential Provisions) Act 1978</i>	36, 1978	12 June 1978	12 June 1978	S. 8
<i>Australia Council Amendment Act 1980</i>	114, 1980	8 Sept 1980	Ss. 25, 27 and 28: 1 Oct 1980 ( <i>see Gazette</i> 1980, No. G39) (a) S. 26: 27 July 1981 ( <i>see Gazette</i> 1981, No. S150) (a) Remainder: Royal Assent	Ss. 6(a), (c), (e) and (f), 25(1), 25(2), 26(1)-(3), 26(4), 27(1), 27(2), 28(1), and 28(2)(a)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (b)	—
<i>Arts, Territories and Environment Legislation Amendment Act 1989</i>	60, 1989	19 June 1989	Ss. 11 and 13: 7 Dec 1988 Part 5 (ss. 14, 15): 11 May 1989 ( <i>see</i> s. 2(3) and <i>Gazette</i> 1989, No. S164) Remainder: Royal Assent	—
<i>Australia Council Amendment Act 1991</i>	24, 1991	22 Feb 1991	22 Mar 1991	Ss. 10(2), 11(2)

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i>	179, 1991	25 Nov 1991	25 Nov 1991	S. 3(2)
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Arts, Environment and Territories Legislation Amendment Act 1992</i>	130, 1992	24 Oct 1992	24 Oct 1992	S. 6
<i>Arts, Environment and Territories Legislation Amendment Act 1993</i>	6, 1994	18 Jan 1994	S. 5: Royal Assent (c)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (item 12): Royal Assent (d)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 160-174): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49 (e))	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 107-109): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (f)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (items 13-16): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (g)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97) [see Table A]



**Act Notes**

- (a) Subsections 2(2)-(4) of the *Australia Council Amendment Act 1980* provide as follows:
- (2) An amendment made by this Act shall not take effect until such date as is fixed by Proclamation with respect to that amendment.
  - (3) A Proclamation under subsection (2) may relate to 2 or more, or to all, of the amendments made by this Act.
  - (4) Sections 25, 26, 27 and 28 shall come into operation as provided in those sections.
- The date fixed under subsection 2(2) of the *Australia Council Amendment Act 1980*, for the amendments to take effect (other than the amendment set out in paragraph 6(c)) was 1 October 1980 (see *Gazette* 1980, No. G39).
- The date fixed under subsection 2(2) for the amendment made by paragraph 6(c) of the *Australia Council Amendment Act 1980* to take effect was 27 July 1981 (see *Gazette* 1981, No. S150).
- (b) The *Australia Council Act 1975* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Australia Council Act 1975* was amended by section 5 only of the *Arts, Environment and Territories Legislation Amendment Act 1993*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Australia Council Act 1975* was amended by Schedule 4 (item 12) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (e) The *Australia Council Act 1975* was amended by Schedule 2 (items 160-174) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (f) The *Australia Council Act 1975* was amended by Schedule 1 (items 107-109) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provides as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
- (g) The *Australia Council Act 1975* was amended by Schedule 10 (items 13-16) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
    - (a) section 3;
    - (b) the items in Schedules 1 to 7 (other than item 18 of Schedule 7);
    - (c) the items in Schedules 10, 11 and 12.

## Table of Amendments

### Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
S. 3.....	am. No. 113, 1976; No. 24, 1991
S. 5.....	am. No. 113, 1976; No. 114, 1980
S. 5A .....	ad. No. 113, 1976 rep. No. 114, 1980
Ss. 6A, 6B .....	ad. No. 24, 1991
S. 7.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991
Note to s. 8(1).....	ad. No. 152, 1997
S. 9.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991; No. 130, 1992
S. 10.....	rs. No. 113, 1976 am. No. 24, 1991; No. 130, 1992
S. 11.....	rs. No. 113, 1976 am. No. 114, 1980; No. 24, 1991; No. 130, 1992; No. 159, 2001
S. 12.....	rs. No. 114, 1980 am. No. 24, 1991 rs. No. 179, 1991 am. No. 146, 1999
S. 13.....	am. No. 24, 1991 rs. No. 130, 1992
S. 14.....	rs. No. 114, 1980 am. Nos. 24 and 179, 1991; No. 130, 1992; No. 152, 1997; No. 156, 1999
S. 15.....	rs. No. 113, 1976 am. No. 24, 1991; No. 152, 1997; No. 156, 1999
S. 16.....	am. No. 113, 1976; No. 24, 1991; No. 146, 1999
S. 17.....	am. No. 24, 1991
S. 17A .....	ad. No. 113, 1976 rs. No. 24, 1991
S. 18.....	rep. No. 113, 1976
S. 19.....	rs. No. 114, 1980 am. No. 24, 1991 rep. No. 152, 1997
Part IIIA .....	ad. No. 113, 1976
(ss. 19A-19F)	
S. 19A .....	ad. No. 113, 1976 am. No. 130, 1992
S. 19B .....	ad. No. 113, 1976 am. No. 24, 1991; No. 159, 2001
S. 19C .....	ad. No. 113, 1976 rs. No. 179, 1991 am. No. 146, 1999
S. 19D .....	ad. No. 113, 1976 am. No. 24, 1991; No. 130, 1992

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
S. 19E .....	ad. No. 113, 1976 am. No. 114, 1980; No. 24, 1991
S. 19F .....	ad. No. 113, 1976 am. No. 114, 1980; Nos. 24 and 179, 1991; No. 130, 1992; No. 152, 1997; No. 156, 1999
S. 20 .....	am. No. 114, 1980; No. 24, 1991
S. 21 .....	rs. No. 113, 1976 am. No. 114, 1980
S. 22 .....	am. No. 113, 1976; No. 114, 1980; No. 24, 1991
S. 23 .....	am. No. 113, 1976; No. 24, 1991
S. 24 .....	rep. No. 113, 1976
S. 25 .....	rep. No. 114, 1980
S. 26 .....	am. No. 24, 1991
S. 27 .....	am. No. 114, 1980; No. 24, 1991; No. 152, 1997; No. 156, 1999
S. 28 .....	am. No. 113, 1976; No. 114, 1980; No. 24, 1991
S. 29 .....	am. No. 24, 1991; No. 6, 1994
S. 30 .....	rep. No. 113, 1976
S. 31 .....	rs. No. 114, 1980 am. No. 24, 1991
S. 31A .....	ad. No. 130, 1992
S. 32 .....	am. No. 36, 1978
S. 33 .....	am. No. 152, 1997
S. 34 .....	am. No. 114, 1980; No. 60, 1989; Nos. 24 and 179, 1991; No. 152, 1997
Ss. 35, 36 .....	rep. No. 152, 1997
S. 36A .....	ad. No. 114, 1980 am. No. 152, 1997
S. 37 .....	rep. No. 152, 1997
S. 38 .....	am. No. 36, 1978; No. 24, 1991 rs. No. 152, 1997
S. 39 .....	am. No. 24, 1991 rep. No. 152, 1997
S. 40 .....	am. No. 114, 1980
S. 41 .....	am. No. 199, 1991
S. 41AA .....	ad. No. 114, 1980 rs. No. 24, 1991
S. 41A .....	ad. No. 113, 1976 am. No. 24, 1991; No. 43, 1996
S. 42 .....	am. No. 113, 1976 rep. No. 65, 1985
S. 43 .....	rep. No. 113, 1976
S. 44 .....	am. No. 113, 1976; No. 114, 1980

## **Table A**

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### **Table A**

#### **Application, saving or transitional provisions**

*Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001*  
(No. 159, 2001)

### **Schedule 1**

#### **97 Application of amendments**

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

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**Version No. 045**  
**Docklands Act 1991**  
**No. 22 of 1991**

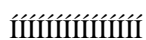
Version incorporating amendments as at 31 December 2007

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**Version No. 045**  
**Docklands Act 1991**  
**No. 22 of 1991**

Version incorporating amendments as at 31 December 2007

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1 Purpose**

The purpose of this Act is to facilitate the development of the docklands area.

S. 1  
amended by  
No. 59/2003  
s. 92.

**2 Commencement**

This Act comes into operation on a day or days to be proclaimed.

**3 Definitions**

In this Act—

**Authority** means the Victorian Urban Development Authority established by the **Victorian Urban Development Authority Act 2003**;

S. 3 def. of  
**Authority**  
substituted by  
No. 59/2003  
s. 93(a).

**building** includes—

- (a) a structure and part of a building or a structure; and
- (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and
- (c) a boat or a pontoon which is permanently moored or fixed to land;

**chief executive** means a person appointed under Part 2 of the **Victorian Urban Development Authority Act 2003** as chief executive of the Authority;

S. 3 def. of  
**chief executive**  
substituted by  
No. 59/2003  
s. 93(b).

***development*** includes—

- (a) the construction or carrying out, extension, demolition or removal of a building or works; or
- (b) the decoration or alteration of the inside or outside of a building or the alteration of works; or
- (c) the subdivision or consolidation of land, airspace or buildings; or
- (d) the installation or provision or operation of facilities or services; or
- (e) the relocation, deepening or widening of a waterway;

***docklands area*** means the area shown on a plan of survey approved for the time being under section 4;

S. 3 def. of  
*docklands*  
*area*  
substituted by  
No. 24/1993  
s. 4.

***holding and selling costs*** in relation to land means—

- (a) any interest, administrative or other costs incurred by the Authority in or incidental to developing the land or selling it; and
- (b) any proportion of the costs incurred by the Authority in promoting the whole or part of the docklands area, that is a proportion that the Authority determines after considering the comparative areas of the land sold and the land promoted;

**land** includes—

- (a) buildings and other structures permanently fixed to land; and
- (b) land covered with water; and
- (c) any estate, interest, easement, servitude, privilege or right in or over land; and
- (d) any stratum of land;

S. 3 def. of *land* amended by No. 74/2006 s. 6(a).

**limitations** in relation to land means trusts, reservations, restrictions, exceptions, encumbrances, limitations, estates and interests;

*	*	*	*	*	S. 3 def. of <i>member</i> repealed by No. 59/2003 s. 93(c).
*	*	*	*	*	S. 3 def. of <i>municipal functions</i> inserted by No. 86/1998 s. 3, repealed by No. 74/2006 s. 6(c).
*	*	*	*	*	S. 3 def. of <i>public notice</i> inserted by No. 86/1998 s. 3, repealed by No. 74/2006 s. 6(c).

**public statutory body** means a body established by or under an Act for a public purpose or a municipal council;

**road** includes bridge, highway, street, lane, footway, square, court, alley or right of way,

whether a thoroughfare or not and whether accessible to the public generally or not;

S. 3 def. of *staff* amended by No. 59/2003 s. 93(d).

*staff* means any person who is employed or engaged by the Authority under section 16 of the **Victorian Urban Development Authority Act 2003**;

S. 3 def. of *stratum of land* inserted by No. 74/2006 s. 6(b).

*stratum of land* means a part of land consisting of a space of any shape above or below or partly above and partly below the surface of the land, all the dimensions of which are limited;

*Subordinate instrument* has the same meaning as in the **Interpretation of Legislation Act 1984**<sup>1</sup>;

S. 3 def. of *voter* inserted by No. 86/1998 s. 3, repealed by No. 74/2006 s. 6(c).

\* \* \* \* \*

*works* includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil and land reclamation and land decontamination.

S. 4 substituted by No. 24/1993 s. 5.

#### 4 Definition and change of docklands area

- (1) On receiving a plan of survey, signed by the Surveyor-General, of the land shown hatched on the plan in Schedule 1, or that land as nearly as practicable, the Minister may recommend that the Governor in Council approve the plan.
- (2) The plan of survey may adjust any defect in the boundaries found on survey.

- (3) On the Minister's recommendation, the Governor in Council, by Order published in the Government Gazette, may approve the plan.

\* \* \* \* \*

S. 4(3A)  
inserted by  
No. 107/1995  
s. 125,  
repealed by  
No. 86/1998  
s. 5(a).

- (4) The Governor in Council, by Order published in the Government Gazette, may reduce the docklands area and revoke the approval of any plan under this section and approve any new or amended plan to reflect the changes made.

- (5) An Order under subsection (4) may, if the Governor in Council thinks it appropriate—

\* \* \* \* \*

S. 4(5)(a)  
amended by  
No. 86/1998  
s. 5(b),  
repealed by  
No. 74/2006  
s. 7(1).

- (b) vest land excluded from the docklands area and vested in the Authority in another public statutory body, and amend any land description in any Act or subordinate instrument in any way necessary because of this.

\* \* \* \* \*

S. 4(6)  
repealed by  
No. 74/2006  
s. 7(2).

## 5 Act binds the Crown

This Act binds the Crown.

## PART 2—THE DOCKLANDS AUTHORITY

### Division 1—Representation of the Crown

Pt 2 Div. 1  
(Heading  
and s. 6)  
substituted by  
No. 59/2003  
s. 94.  
S. 6  
amended by  
Nos 126/1993  
s. 264(Sch. 5  
item 6.1),  
86/1998 s. 6,  
substituted by  
59/2003 s. 94.

#### 6 Authority to represent the Crown for certain purposes

The Authority—

- (a) holds on behalf of the Crown any property acquired by it or vested in it under this Act (except property vested in it under Part 3A or Part 7);
- (b) represents the Crown where—
  - (i) it does anything under this Act in relation to Crown land;

S. 6(b)(i)  
substituted by  
No. 74/2006  
s. 8(1).

S. 6(b)(ii)  
repealed by  
No. 74/2006  
s. 8(2).

\* \* \* \*

S. 6(b)(iii)  
amended by  
No. 74/2006  
s. 8(3).

- (iii) by agreement under this Act, it acts for the Crown or for a public sector agency that represents the Crown—

S. 6(b)(iv)  
repealed by  
No. 74/2006  
s. 8(4).

\* \* \* \*

but does not otherwise represent the Crown.

S. 7  
repealed by  
No. 59/2003  
s. 94.

\* \* \* \*

### Division 2—Objectives, functions and general powers

## **8 Extended area of operation**

With the Minister's approval, the Authority may carry out its functions, powers and duties under this Act in relation to an area other than the docklands area, if the Minister reasonably considers this will promote the development of the docklands area.

S. 8  
amended by  
No. 59/2003  
s. 95.

## **9 Objective of the Authority**

- (1) The objective of the Authority under this Act is to promote, encourage and facilitate development of the docklands area and to complete its involvement in that development by 31 December 2005.
- (2) In carrying out its objective, functions and powers under this Act the Authority must give full recognition to government objectives, policies and plans for the operation of the Port of Melbourne.

S. 9(1)  
amended by  
Nos 73/1996  
s. 15, 59/2003  
s. 96(1).

S. 9(2)  
amended by  
No. 59/2003  
s. 96(2).

## **10 Functions of the Authority**

The Authority has the following functions under this Act—

- (a) to develop the docklands area;
- (b) to promote and encourage the involvement of the private sector in that development;
- (c) to oversee and co-ordinate the development by others of the docklands area;
- (d) to investigate development options and prepare and implement development strategies;
- (e) to investigate infrastructure options and prepare and implement plans for infrastructure co-ordination;

S. 10  
amended by  
No. 59/2003  
s. 97(1).

**s. 10**

S. 10(j)  
amended by  
Nos 82/1995  
s. 202(a),  
63/1997  
s. 10(4)(Sch.  
item 1.1).

- (f) to take, support or promote measures to encourage people to live and work in the area;
- (g) to take, support or promote measures to create in the area an attractive environment;
- (h) to encourage appropriate public involvement in that development;
- (i) to promote, assist in and co-ordinate the economic, cultural and social development of the docklands area;
- (j) to facilitate and, with the consent of the Minister administering the **Port Services Act 1995**, plan and implement the reorganization of port facilities;

S. 10(l)  
substituted by  
No. 24/1993  
s. 6.

- (k) to facilitate and, with the consent of the Minister administering the **Transport Act 1983**, plan and implement the reorganization of transport facilities;
- (l) to promote tourism to, in or for the benefit of the docklands area;

S. 10(la)  
inserted by  
No. 24/1993  
s. 6.

- (la) to promote recreational, social and cultural activities in or for the benefit of the docklands area;

S. 10(m)  
substituted by  
No. 59/2003  
s. 97(2).

- (m) to perform any other functions conferred on it—
  - (i) by or under this Act; or
  - (ii) by or under any other Act in relation to the docklands area.



## 11 General powers and duties

- (1) The Authority must, as far as practicable make sure that by the end of its involvement in the development of the docklands area under this Act, it has secured a prudent financial return on its overall commercial investment in the area. S. 11(1) amended by No. 59/2003 s. 98(1).
- (2) The Authority may do all the things that are necessary or convenient to be done for or incidental to achieving its objectives and performing its functions under this Act. S. 11(2) amended by No. 59/2003 s. 98(2).
- (3) For the purpose of achieving its objectives and performing its functions under this Act, the Authority also has the powers listed in Part 3, but these powers do not limit its general powers. S. 11(3) amended by No. 59/2003 s. 98(3).
- \* \* \* \* \* S. 12 repealed by No. 59/2003 s. 99.
- \* \* \* \* \* S. 13 amended by No. 86/1998 s. 7, repealed by No. 59/2003 s. 99.
- \* \* \* \* \* S. 14 amended by No. 46/1998 s. 7(Sch. 1), repealed by No. 59/2003 s. 99.

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**PART 3—PARTICULAR POWERS OF THE AUTHORITY**

Pt 3 Div. 1  
(Heading and  
ss 15, 16),  
amended by  
No. 24/1993  
s. 7,  
repealed by  
No. 59/2003  
s. 99.

\* \* \* \*

**Division 2—Obtaining land**

**17 Surrender or divesting of land of other bodies**

- (1) The Governor in Council, by Order published in the Government Gazette may—
- (a) require a public statutory body in which land in the docklands area is vested to surrender it to the Crown;
  - (b) divest land in the docklands area from a public statutory body—
- so that the land can be granted to the Authority to be developed.
- (2) A public statutory body must comply with a requirement under subsection (1)(a).
- (3) On—
- (a) the conveyance to the Crown or the registration of an instrument of transfer and surrender to the Crown of land that a public statutory body is required to surrender under subsection (1)(a); or
  - (b) the publication in the Government Gazette of an Order under subsection (1)(b)—
- the land concerned is deemed to be unalienated land of the Crown and, subject to subsection (4), is freed and discharged from all limitations.

- (4) The divesting or surrender of land under this section does not affect any reservation of the land under the **Crown Land (Reserves) Act 1978**.
- (5) The Governor in Council may by Order published in the Government Gazette make any amendments to any land description in any Act or subordinate instrument that are necessary because of the divesting or surrender of land under this section.
- (6) A power may only be exercised under subsection (1) or (5) on the joint recommendation of the Minister and the Minister administering the Act under which the public statutory body is created.

## 18 Grant of land to the Authority

- (1) The Governor in Council on behalf of the Crown may grant to the Authority for an estate in fee simple—
  - (a) land divested or surrendered under this Part;
  - (b) any other land in the docklands area that is or is deemed to be unalienated land of the Crown and is not reserved under the **Crown Land (Reserves) Act 1978**.
- (2) As a condition of granting land to the Authority, the Minister may require it to agree to pay into the Consolidated Fund or, if the land was surrendered by or divested from a public statutory body, to that body, the net proceeds of any sale of that land by the Authority, less any holding and selling costs.
- (3) The grant—
  - (a) if it is of land covered with waters of the sea, must be limited to a depth of 60 metres below high water mark; and

S. 18(1)(b)  
amended by  
No. 74/2000  
s. 3(Sch. 1  
item 35).

- (b) if it is for other land, must be limited to a depth of 60 metres below the surface of the land; and
  - (c) may contain any other terms, covenants, conditions, reservations, exceptions, trusts or limitations that the Governor in Council determines.
- (4) Land may be granted to the Authority with or without consideration being given by the Authority.

## 19 Acquisition of land

S. 19(1)  
amended by  
No. 59/2003  
s. 100(1).

- (1) For the purposes of this Act, the Authority may acquire by agreement an interest in land on any terms (including consideration) that it considers appropriate.

S. 19(2)  
amended by  
No. 59/2003  
s. 100(2).

- (2) For the purposes of this Act, the Authority, with the Minister's approval, may acquire an interest in land by compulsory process.

- (3) The **Land Acquisition and Compensation Act 1986** applies to subsection (2) and for that purpose—

- (a) subsection (2) is the special Act; and
- (b) the Docklands Authority is the Authority.

- (4) In determining the amount of compensation to be paid for the compulsory acquisition of land by the Authority, no allowance is to be made for the enhancement of the value of the land attributable to any action of the Authority.

S. 19A  
inserted by  
No. 59/2003  
s. 101.

## 19A Creation of easements

If any right in the nature of an easement or purporting to be an easement or an irrevocable licence is or has been acquired by the Authority under this Act, whether before or after the commencement of the **Victorian Urban**

**Development Authority Act 2003**, the right is deemed for all purposes to be and to have been an easement even if there is no land vested in the Authority which is benefited by the right.

### **Division 3—Activities on land**

## **20 Land management and use**

(1) This section applies to land in the docklands area that is—

- (a) Crown land other than land for which the Melbourne City Council is the committee of management under the **Crown Land (Reserves) Act 1978**; or
- (b) vested in the Authority.

S. 20(1)(a)  
substituted by  
No. 74/2006  
s. 9.

(2) The Authority may—

- (a) grant leases or licences over land to which this section applies; or
- (b) exercise any of its other functions or powers over land to which this section applies.

(3) A lease or licence granted by the Authority over Crown land—

- (a) must be consistent with any reservation of the land; and
- (b) is not subject to the **Land Act 1958** or the **Crown Land (Reserves) Act 1978**.

(4) The Authority may grant an easement or privilege over land vested in it.

## **21 Revocation of reservations**

(1) The Governor in Council on the recommendation of the Minister and the Minister administering the **Crown Land (Reserves) Act 1978** may by Order published in the Government Gazette on or after 1 December

S. 21(1)  
amended by  
No. 74/2006  
s. 10.

1992 declare that the temporary or permanent reservation under that Act (including any deemed reservation under section 66 or 67 of this Act) of land which is in the docklands area and is described in the Order is revoked.

- (2) On the publication in the Government Gazette of an Order under subsection (1)—
- (a) any Order in Council reserving the land and any appointment of a committee of management for the land are revoked; and
  - (b) unless the Order otherwise provides, the land is, despite any Act or law to the contrary, deemed to be unalienated land of the Crown, freed and discharged from all limitations; and
  - (c) if the Order states that this paragraph applies, any Crown grant of that land made before the date of publication of the Order, and any other title document deriving from the grant is, and must be taken always to have been, as valid and effective as if the reservation of that land had been revoked before the grant was made.

## **22 Authority's power to enter land**

- (1) A person authorised by the Authority or who is a member of the Authority's staff may enter land in the docklands area for the purpose of—
- (a) carrying out surveys or investigations connected with the development of the docklands area; or
  - (b) doing on the Authority's behalf anything which it is authorised to do on that land in carrying out its functions or powers.
- (2) The Authority must give 7 days notice in writing to the occupier of the land to be entered before entry occurs.

- (3) The Authority need not give this notice—
  - (a) if the occupier consents to the entry; or
  - (b) in an emergency.
- (4) A person must not under this section enter land used primarily for residential purposes except between 7.30 a.m. and 6.00 p.m. unless—
  - (a) the Authority has reasonable grounds for believing that in respect of that land the by-laws are not being complied with; or
  - (b) the occupier consents to the entry.
- (5) In exercising a power under subsection (1) a person must—
  - (a) cause as little harm and inconvenience as possible;
  - (b) not stay on the land for any longer than is reasonably necessary;
  - (c) remove from the land anything brought on to the land by the person in the exercise of the power, other than anything that the owner or occupier of the land agrees may be left there;
  - (d) leave the land as nearly as possible in the condition in which he or she found it.

#### **Division 4—Disposing of and other dealings with land**

Pt 3 Div. 4  
(Heading)  
amended by  
No. 24/1993  
s. 8.

#### **23 Authority may surrender land to the Crown**

- (1) The Authority is an authority for the purposes of section 22A of the **Land Act 1958** in relation to land in the docklands area.
- (2) The powers to surrender land or to agree to the transfer or exchange of land conferred on the Authority by section 22A of the **Land Act 1958**

S. 23(1)  
amended by  
No. 59/2003  
s. 102.

S. 23(2)  
substituted by  
No. 24/1993  
s. 9.

as applied by this section are in addition to and do not derogate from any of the Authority's other functions or powers and any other provisions of this Part.

## 24 Disposing of land in other ways

S. 24(1)  
amended by  
No. 59/2003  
s. 103(1).

- (1) The Authority may for the purposes of this Act—
  - (a) grant leases or licences over land vested in it or registered in its name; or
  - (b) on or after 1 December 1992, dispose of its interest in fee simple in any land—

on any terms (including consideration) that it considers appropriate.

S. 24(2)  
substituted by  
No. 66/1997  
s. 4(1),  
amended by  
No. 59/2003  
s. 103(2).

- (2) For the purposes of this Act, the Authority may enter into an agreement with another person concerning the use or development of land in the docklands area—
  - (a) on disposing of the whole of its interest in the land to that person; or
  - (b) in anticipation of disposing of the whole of its interest in the land to that person.

S. 24(3)  
amended by  
No. 66/1997  
s. 4(2)(a).

- (3) Division 2 of Part 9 of the **Planning and Environment Act 1987**<sup>2</sup> applies to an agreement under subsection (2) as if—

- (a) it was an agreement under that Division;
  - (b) it referred to the Authority instead of the responsible authority for the planning scheme;

S. 24(3)(ba)  
inserted by  
No. 66/1997  
s. 4(2)(b).

- (ba) in section 173(4) the expression "unless the vendor assumes the purchaser's rights and obligations under the agreement" were omitted;
  - (c) section 174(2)(c) were omitted;



- (d) sections 177(2), 178 and 179(1) referred to the Minister administering the **Docklands Authority Act 1991** instead of the Minister.

### Division 5—Other powers

#### 25 Charges

- (1) With the prior approval of the Governor in Council the Authority may, by resolution, levy charges on the owners, occupiers or licensees of properties or groups of properties in the docklands area—

- (a) for the supply of telecommunications or other services provided by or by agreement with the Authority; or

S. 25(1)(a)  
amended by  
Nos 66/1997  
s. 6, 86/1998  
s. 8(1).

- (b) for the promotion of the docklands area by the Authority; or
- (c) for the maintenance or management by or by agreement with the Authority of areas or facilities for common use by groups of properties or users in the docklands area; or
- (d) for the provision by or by agreement with the Authority of the infrastructure necessary for the development of the area or any part of it.

- (2) Those charges—

- (a) may be different for different classes of properties;
- (b) may vary according to the value or size of land or the nature or extent of use of the service or facility;
- (c) may include minimum charges or a scale of charges;

(d) need not relate directly to the cost of services or facilities provided;

(e) may be concessional charges;

(f) may be waived in whole or in part on any conditions that the Authority determines.

(3) A person liable under this section to pay a charge in respect of a property and who would otherwise be liable under another Act to pay a charge in respect of the same property for the same matter is not liable to pay that other charge, despite anything to the contrary in any Act or law.

(4) Subsection (3) also applies to charges levied by owners corporations within the meaning of the **Owners Corporations Act 2006** as if the charges were levied under an Act.

(4A) Despite subsection (1), the Authority may not levy charges for any matter for which the Melbourne City Council has levied a rate or charge.

(5) For land that is not rateable under section 154 of the **Local Government Act 1989**—

(a) a charge may only be levied under subsection (1)(a) in respect of the use of works or services; and

(b) a charge may only be levied under subsection (1)(a) on the user of those works or services.

(6) A charge which is levied in relation to land and is unpaid and any unpaid interest on that charge and any costs awarded to the Authority by a court in any proceedings in relation to that charge or interest are a first charge on the land.

S. 25(4)  
amended by  
No. 69/2006  
s. 224(Sch. 3  
item 3).

S. 25(4A)  
inserted by  
No. 74/2006  
s. 11(1).

S. 25(6)  
substituted by  
No. 86/1998  
s. 8(2).

- (7) Sections 262, 263, 266 and Division 7 of Part 13 of the **Water Act 1989**<sup>3</sup> apply to a charge under this section as if the Authority were an Authority within the meaning of that Act and the charge were a fee imposed under a tariff set by an Authority under that Act.

## **26 How may a charge be levied?**

- (1) A resolution under this Division levying a charge has no effect until the Authority causes notice of the making of the resolution to be published in the Government Gazette and in a newspaper circulating generally throughout Victoria.
- (2) A resolution levying a charge must state what the charge is for, how the charge is calculated, when it is due, on what properties it is levied and who must pay it.

## **27 Exemption from charges etc.**

- (1) Despite anything to the contrary in any Act or law, the Treasurer, on the Minister's advice, may by instrument totally or partially exempt the whole or a specified part of the docklands area from any duty, rate, tax or charge levied under this or any other Act in respect of land.
- (2) An exemption must state the time for which it operates and may be subject to any conditions specified in the instrument of exemption.
- (3) The Minister must cause notice of an exemption to be published in the Government Gazette.
- (4) The Minister must obtain the written consent of the Melbourne City Council before giving advice under subsection (1) in respect of a rate or charge levied by the Melbourne City Council.

S. 27(4)  
inserted by  
No. 74/2006  
s. 11(2).

## **28 Transport and port facilities**

- (1) Within the docklands area the Authority may, by resolution, do all or any of the following—

- (a) construct, extend, realign, relocate, open, operate, close or remove roads, railways, transport facilities and tunnels;
- (b) construct, operate or remove port facilities;
- (c) deepen, widen or divert any waterway;
- (d) deepen or otherwise change the contours of any area of land covered with the waters of the sea;
- (e) carry out or operate works or facilities associated with any of the things mentioned in paragraphs (a) to (d).

S. 28(2)  
amended by  
Nos 82/1995  
s. 202(b)(i)(ii),  
63/1997  
s. 10(4)(Sch.  
item 1.2),  
104/1997  
s. 43(a)(b),  
30/2000  
s. 33(1),  
45/1999 s. 47,  
23/2003  
s. 26(1),  
85/2003 s. 32,  
95/2005  
s. 12(2)(a)(i)(ii),  
74/2006 s. 12.

- (2) Before the Authority does anything under subsection (1) to a road, railway, transport facility, tunnel, port facility or waterway vested in or under the control of the Melbourne and Metropolitan Board of Works, Port of Melbourne Corporation, Roads Corporation, Southern Cross Station Authority established under the **Rail Corporations Act 1996**, Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996**, the Victorian Regional Channels Authority or the Melbourne City Council, the Authority must get the approval of that Board, Corporation, Authority or other body.

S. 28(2A)  
inserted by  
No. 98/1998  
s. 46,  
amended by  
Nos 30/2000  
s. 33(2),  
95/2005  
s. 12(2)(b).

- (2A) Without limiting subsection (2), if under that subsection the Authority is required to get the approval of Victorian Rail Track or the Southern Cross Station Authority established under the **Rail Corporations Act 1996** before doing anything under subsection (1), the Authority must also get the approval of the Director of Public Transport appointed under the **Transport Act 1983** before doing that thing.
- (3) The Governor in Council may by Order published in the Government Gazette provide for—
  - (a) any vesting or divesting of lands;

- (b) any amendments to any land descriptions in any Act or subordinate instrument—

necessary because of the exercise by the Authority of its powers under subsection (1).

- (4) An Order under subsection (3) may only be made on the joint recommendation of the Minister and—
  - (a) any other Minister administering an Act affected by the Order; or
  - (b) any other Minister responsible for a body whose land is affected by the Order.

## **29 Closing roads**

- (1) A resolution under this Division to close, realign or relocate a road has no effect until the Authority causes notice of it to be published in the Government Gazette and in a newspaper circulating generally throughout Victoria.
- (2) On the publication under subsection (1) of a resolution closing, realigning or relocating a road, the land over which the closed realigned or relocated road ran ceases to be a road, and all rights, easements and privileges existing or claimed either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease and that land is deemed to be unalienated land of the Crown.
- (3) The Authority may temporarily close a road in the docklands area to traffic if it considers it necessary to do so so that works on the road or neighbouring land can be carried out.

## **30 Bodies may be required to act promptly**

Docklands Act 1991

No. 22 of 1991

Part 3—Particular Powers of the Authority

s. 32

S. 30(1)  
amended by  
No. 74/2006  
s. 13.

- (1) The Governor in Council may require a Minister, Department Head or public statutory body to carry out his, her or its functions in relation to the docklands area within a time specified in the Order, and that person or body must comply with the requirement.
- (2) A requirement under subsection (1) cannot vary any time prescribed by or under an Act.

S. 31  
amended by  
No. 126/1993  
s. 264(Sch. 5  
item 6.2),  
substituted by  
No. 18/1998  
s. 12,  
repealed by  
No. 74/2006  
s. 14.

\* \* \* \*

S. 32  
(Heading)  
inserted by  
No. 74/2006  
s. 15(1).

## 32 Docklands may become or cease to be a port

- (1) The Governor in Council may by Order published in the Government Gazette declare—

S. 32(1)(a)  
amended by  
Nos 82/1995  
s. 202(c)(i)(ii),  
63/1997  
s. 10(4)(Sch.  
item 1.3),  
23/2003  
s. 26(2),  
85/2003 s. 32.

- (a) that land divested under this Act from the Port of Melbourne Corporation or the Victorian Regional Channels Authority reverts in that Authority or Corporation;

S. 32(1)(b)  
repealed by  
No. 86/1998  
s. 9.

\* \* \* \*

S. 32(1)(c)  
repealed by  
No. 74/2006  
s. 15(2).

\* \* \* \*

*	*	*	*	*	S. 32(1)(d) substituted by No. 63/1997 s. 10(4)(Sch. item 1.4), repealed by No. 74/2006 s. 15(2).
(da) that land divested under this Act from the Melbourne Port Corporation or the Victorian Channels Authority is no longer subject to the <b>Port Services Act 1995</b> ;					S. 32(1)(da) inserted by No. 82/1995 s. 202(d).
*	*	*	*	*	S. 32(1)(e) repealed by No. 63/1997 s. 10(4)(Sch. item 1.5).
(ea) that land to which a declaration under paragraph (da) applies is subject to the <b>Port Services Act 1995</b> ;					S. 32(1)(ea) inserted by No. 82/1995 s. 202(e).
(2) The Governor in Council may in an Order under subsection (1) make any amendment to any land description in the <b>Port Services Act 1995</b> or in any subordinate instrument under that Act that is necessary because of the operation of the Order.					S. 32(2) amended by Nos 82/1995 s. 202(f), 63/1997 s. 10(4)(Sch. item 1.6), 74/2006 s. 15(3).
*	*	*	*	*	S. 33 amended by No. 59/2003 s. 104, repealed by No. 74/2006 s. 16.

### 34 Disputes between government and semi-government agencies

- (1) The Governor in Council may determine any dispute or question about anything done or proposed to be done under this or any other Act arising in relation to the docklands area between any of the following—

- (a) the Authority;
  - (b) government departments;
  - (c) public statutory bodies.
- (2) A dispute can only be referred to the Governor in Council for determination on the joint recommendation of the Minister and—
- (a) the Minister responsible for any other department concerned;
  - (b) the Minister administering the Act under which the body concerned operates or is established.
- (3) The determination has effect despite anything to the contrary in any other Act and the persons or bodies between whom the dispute or question arose must comply with it.

### **35 Tendering and other procedures**

S. 35(1)  
amended by  
No. 59/2003  
s. 105.

- (1) The Governor in Council may by Order published in the Government Gazette specify the procedures to be followed by the Authority under this Act in—
- (a) acquiring or disposing of real or personal property other than the compulsory acquiring of interests in land;
  - (b) making agreements or arrangements.
- (2) The Authority must carry out its functions and powers subject to any Order made under this section.

S. 35A  
inserted by  
No. 66/1997  
s. 5.

### **35A Negotiation bonds**

- (1) The Authority, with the approval of the Minister, may in writing, request any person to lodge a negotiation bond with the Authority if the person has expressed an interest—



- (a) in the development of any precinct or any part of a precinct of the docklands area; or
  - (b) in the provision of an item or combination of items of trunk infrastructure in the docklands area.
- (2) A negotiation bond must not exceed \$100 000 for each precinct or for each item or combination of items of trunk infrastructure in respect of which the person has expressed an interest.
- (3) The request may provide that the negotiation bond—
  - (a) must be in the form of—
    - (i) a cash deposit; or
    - (ii) a guarantee, in a form acceptable to the Authority, provided by a body that is permitted to use the expression "bank" under section 66 of the Banking Act 1959 of the Commonwealth; and
  - (b) is to be lodged subject to the conditions specified by the Authority in the request, including conditions relating to the circumstances in which the bond may be forfeited.
- (4) If a person does not lodge a negotiation bond with the Authority in accordance with a request under this section within 7 days after the request is made, the Authority may refuse to enter into any arrangement or agreement under this Act with that person in relation to—
  - (a) the development of the precinct or the provision of trunk infrastructure; or
  - (b) any lease, licence or disposal of land in the precinct or relating to the provision of trunk infrastructure; or

S. 35A(3)(a)(ii)  
substituted by  
No. 11/2001  
s. 3(Sch.  
item 22).

- 
- (c) the use or development of land in the precinct or relating to the provision of trunk infrastructure.

(5) In this section—

*precinct* means any part of the docklands area which the Authority by notice published in the Government Gazette determines to be a precinct of the docklands area;

*infrastructure* includes—

- (a) roads and traffic works;
- (b) pedestrian walkways and bicycle paths;
- (c) sewerage, storm water drainage, water supply, electricity, gas, telecommunications and other like services;
- (d) works to improve water edges and water quality;
- (e) wharves, marinas and boat launching and berthing facilities;
- (f) light rail, tram and other public transport works;
- (g) public parks and public spaces and related works;
- (h) art works;
- (i) education facilities and community facilities, including kindergartens, libraries, community centres, health facilities and emergency service facilities;

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*trunk infrastructure* means any item of  
infrastructure that provides benefits or  
services to more than one precinct.

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Pt 3A  
(Heading and  
ss 35B–35Z)  
inserted by  
No. 86/1998  
s. 4,  
amended by  
Nos 59/2003  
s. 106,  
109/2003 ss 8,  
13, 26, 77(a),  
91,  
repealed by  
No. 74/2006  
s. 17.

Pt 4  
(Heading)  
amended by  
No. 31/1994  
s. 4(Sch. 2  
item 23.1).

S. 36  
amended by  
No. 86/1998  
s. 10,  
substituted by  
No. 59/2003  
s. 107.

S. 36(3)(b)  
substituted by  
No. 74/2006  
s. 18.

Ss 37–39  
repealed by  
No. 31/1994  
s. 4(Sch. 2  
item 23.2).

## PART 4—FINANCES

### 36 Docklands Fund

- (1) The Authority must establish and keep a fund called the Docklands Fund.
- (2) The Authority must ensure that all the money received by it, or on its behalf, for the purposes of this Act is paid into the Docklands Fund.
- (3) The Authority may pay money out of the Docklands Fund—
  - (a) to pay any costs and expenses incurred by it in exercising its functions or powers under this Act;
  - (b) pursuant to an Order made under section 62;
  - (c) to repay any money borrowed by it for the purposes of this Act together with any charges or interest on that money;
  - (d) for any other purpose authorised by this Act.

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## 40 Borrowings

*	*	*	*	*	S. 40(1) substituted by No. 100/1995 s. 10(Sch. 1 item 3.1), repealed by No. 59/2003 s. 108(1).
*	*	*	*	*	S. 40(2)(3) repealed by No. 100/1995 s. 10(Sch. 1 item 3.1).
(4) Money paid out of the Consolidated Fund in respect of a guarantee given for financial accommodation obtained by the Authority for the purposes of this Act must be taken to be an advance to the Authority and must be repaid by the Authority when funds that may properly be used for that purpose become available.					
*	*	*	*	*	S. 40(4) amended by No. 59/2003 s. 108(2).
*	*	*	*	*	S. 41 repealed by No. 59/2003 s. 108(1).

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**PART 5—GENERAL**

**Division 1—Advisory committees**

**42 Minister may appoint advisory committee**

S. 42(1)  
amended by  
No. 59/2003  
s. 109.

- (1) The Minister may appoint any advisory committees that the Minister considers appropriate to advise him or her in relation to the docklands area or the Authority's functions under this Act.
- (2) The Minister may do all or any of the following—
  - (a) determine or vary the functions of an advisory committee;
  - (b) appoint persons to be chairperson and members of an advisory committee;
  - (c) determine the terms and conditions of appointment of a chairperson or other member;
  - (d) at any time remove a chairperson or other member from office.
- (3) A chairperson or other member of an advisory committee who is not a member of Parliament, is entitled to receive any travelling or other allowances that are fixed by the Minister for that member.
- (4) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of an advisory committee in respect of the office of member.

S. 42(4)  
amended by  
No. 46/1998  
s. 7(Sch. 1),  
substituted by  
Nos 108/2004  
s. 117(1)  
(Sch. 3  
item 57),  
80/2006  
s. 26(Sch.  
item 27).

- (5) Schedule 3 (but not the by-laws, or the provisions about remuneration or allowances) applies to the

procedure of an advisory committee as if it referred to an advisory committee instead of the Authority.

- (6) The Minister may at any time dissolve an advisory committee.

#### **43 Membership of advisory committee not office of profit**

A member of an advisory committee is not to be taken to hold an office or place of profit under the Crown which would—

- (a) prevent the member sitting or voting as a member of the Legislative Council or Legislative Assembly; or
- (b) make void the member's election to the Legislative Council or Legislative Assembly; or
- (c) prevent the member continuing to be a member of the Legislative Council or Legislative Assembly; or
- (d) subject the member to any liability or penalty under the **Constitution Act 1975**.

#### **Division 2—Confidentiality, evidence and other matters**

\* \* \* \*

**S. 44**  
substituted by  
No. 59/2003  
s. 110,  
repealed by  
No. 74/2006  
s. 19.

\* \* \* \*

**S. 45**  
amended by  
No. 86/1998  
s. 11,  
repealed by  
No. 59/2003  
**S. 110.**

\* \* \* \*

**S. 46**  
repealed by  
No. 59/2003  
s. 110.

S. 47  
amended by  
No. 46/1998  
s. 7(Sch. 1),  
repealed by  
No. 59/2003  
s. 110.

\* \* \* \*

## 48 Proceedings

Proceedings for an offence under this Act or the by-laws or the regulations may be brought by the Authority or a person authorised in writing by the Authority to do so either generally or in a particular case.

## 49 Evidence

(1) Proof is not required in the absence of evidence to the contrary—

(a) that the person bringing a proceeding for an offence under this Act or the by-laws is authorised to bring it;

S. 49(1)(b)–(d)  
repealed by  
No. 59/2003  
s. 111(1)(a).

\* \* \* \*

(e) of the fact that a particular property is located within the docklands area;

S. 49(1)(f)  
repealed by  
No. 59/2003  
s. 111(1)(a).

\* \* \* \*

(g) of the fixing of a charge by the Authority under this Act;

S. 49(1)(g)  
amended by  
No. 59/2003  
s. 111(1)(b).

S. 49(1)(h)  
repealed by  
No. 59/2003  
s. 111(1)(a).

\* \* \* \*



(2) A document appearing to be part of a by-law, resolution, order or notice made or issued by the Authority under this Act and appearing to be authenticated by the Authority is admissible in evidence in any proceedings and, in the absence of evidence to the contrary is proof that a by-law, resolution, order or notice in those terms was duly made or issued by the Authority.

S. 49(2)  
amended by  
No. 59/2003  
s. 111(2).

(3) A document appearing to be issued by the Authority or appearing to be signed by the chairperson or chief executive of the Authority and—

- (a) stating the amount, liability to pay, extent of payment or other particulars relating to a charge under this Act; or
- (b) stating that a person's name appears in any records kept by a public statutory body as the owner or occupier of land; or
- (c) stating that a person's name appears in any records kept under the **Transfer of Land Act 1958** as the proprietor of an estate in fee simple or a leasehold estate in land; or
- (d) stating that a person's name appears in any records kept in the office of the Registrar-General as the owner of land—

S. 49(3)(a)  
amended by  
No. 59/2003  
s. 111(3).

is, in the absence of evidence to the contrary, proof of the matters stated in the document.

\* \* \* \* \*

S. 49(4)  
repealed by  
No. 59/2003  
s. 111(4).

Docklands Act 1991  
No. 22 of 1991  
Part 5—General

s. 51

S. 50  
amended by  
No. 86/1998  
s. 12,  
repealed by  
No. 59/2003  
s. 112.

\* \* \* \*

S. 51  
amended by  
No. 59/2003  
s. 113.

**51 Other laws not affected**

This Division adds to and does not take away  
from any other Act rule or law relating to  
evidence.

S. 51A  
inserted by  
No. 86/1998  
s. 13,  
amended by  
No. 109/2003  
s. 77(b),  
repealed by  
No. 74/2006  
s. 19.

\* \* \* \*

**52 Action by Registrar of Titles**

S. 52(1)  
repealed by  
No. 85/1998  
s. 24(Sch.  
item 18).

\* \* \* \*

- (2) On being requested to do so and on delivery of  
any relevant instrument or document, the  
Registrar of Titles must make any recordings in  
the Register that are necessary because of the  
operation of this Act or an Order made under this  
Act.

S. 52(3)  
repealed by  
No. 24/1993  
s. 11.

\* \* \* \*

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**53 No compensation payable by Crown**

No compensation is payable by the Crown in respect of—

- (a) the vesting or divesting of land that occurs by force of this Act or an Order made under this Act; or
  - (b) anything done under or arising out of section 21.
-

## PART 6—BY-LAWS REGULATIONS AND REVIEW

### 54 By-laws

- (1) With the approval of the Governor in Council the Authority may make by-laws in relation to all or any part or parts of the docklands area, for or with respect to prohibiting, controlling or regulating any of the following—

S. 54(1)(a)-(c)  
repealed by  
No. 74/2006  
s. 20.

\* \* \* \* \*

- (d) interference with or damage to the property, works or undertakings of the Authority;

S. 54(1)(e)  
repealed by  
No. 86/1998  
s. 14.

\* \* \* \* \*

- (f) activities on land held by the Authority and the conduct of people, animals and vehicles on that land;

S. 54(1)(g)  
repealed by  
No. 86/1998  
s. 14.

\* \* \* \* \*

- (h) excluding or removing from the area people animals or vehicles that contravene specified by-laws;

S. 54(1)(i)  
repealed by  
No. 86/1998  
s. 14.

\* \* \* \* \*

- (j) the procedure of the Authority;

- (k) the charges (if any) for works and services provided by or by agreement with the Authority;
- (l) the recovery in the Magistrates' Court from persons responsible of all expenses incurred by the Authority in connection with contraventions of the by-laws;

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S. 54(1)(m)  
repealed by  
No. 74/2006  
s. 20.

- (n) any other matter required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The by-laws—
- (a) may be of general or limited application;
  - (b) may differ according to difference in time, place or circumstances;
  - (c) may confer discretions or powers or impose duties on any person or leave anything to be determined or approved by any person;
  - (d) may provide for charges by fixing maximum or minimum charges, scales of charges, different charges for different classes of cases, concessional charges or charges according to the size or value of land;
  - (e) may apply, adopt or incorporate by reference any document formulated or published by any person or body—
    - (i) wholly or in part; or
    - (ii) with or without modifications; or
    - (iii) as in force at a particular date or from time to time;

- (f) may provide for exceptions or waivers;
- (g) may impose penalties not exceeding 10 penalty units for breach of the by-laws.

## 55 Public availability of by-laws

- (1) The Authority must cause notice of the making of any by-law to be published in the Government Gazette.
- (2) The Authority must keep a copy of any unrevoked by-law available for inspection during normal office hours by members of the public, without charge, at the Authority's principal office.
- (3) A failure to comply with subsection (1) or (2) does not affect the validity or, subject to subsection (4), the operation or effect of the by-law.
- (4) A person must not be convicted of an offence consisting of a breach of a by-law where it is proved that, at the time of the alleged breach, notice of the making of the by-law had not been published as provided in subsection (1) or a copy of the by-law could not be inspected as provided in subsection (2).
- (5) A person must not be prejudicially affected or made subject to any liability by a by-law of the Authority where it is proved that, at the relevant time, notice of making of the by-law had not been published as provided in subsection (1) or a copy of the by-law could not be inspected as provided in subsection (2).
- (6) Sections 5, 6 and 6A of the **Subordinate Legislation Act 1962** apply to the by-laws as if they were a statutory rule within the meaning of that Act, notice of which had been published in the Government Gazette on the day on which notice of the making of the by-laws was so published.

- (7) The by-laws may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (8) Disallowance of a by-law under subsection (7) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

## 56 Regulations

S. 56  
(Heading)  
inserted by  
No. 74/2006  
s. 21(1).

\* \* \* \* \*

S. 56(1)  
repealed by  
No. 59/2003  
s. 114.

- (1) The Governor in Council may make regulations for or with respect to prescribing any matter or thing authorised or required to be prescribed or necessary or convenient to be prescribed for carrying this Act into effect.

S. 56(1A)  
inserted by  
No. 86/1998  
s. 15,  
substituted as  
s. 56(1) by  
No. 74/2006  
s. 21(2).

- (2) The regulations—
- (a) may be of general or limited application;
  - (b) may differ according to differences in time place or circumstances;
  - (c) may leave anything to be determined or approved by any person;
  - (d) may impose penalties not exceeding 10 penalty units for breach of the regulations.

- 
- (3) The regulations may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance of a regulation under subsection (3) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

\* \* \* \* \*

S. 57  
repealed by  
No. 9/1996  
s. 30,  
new s. 57  
inserted by  
No. 73/1996  
s. 16,  
repealed by  
No. 86/1998  
s. 16.



**PART 7—TRANSITIONAL**

Pt 7  
(Heading and  
ss 57–64)  
inserted by  
No. 86/1998  
s. 17,  
substituted as  
Pt 7  
(Headings  
and ss 57–73)  
by  
No. 74/2006  
s. 22.

**Division 1—General transitional provisions**

**57 Definitions**

In this Division—

*appointed day* means the date of  
commencement of section 4 of the **City of  
Melbourne and Docklands Acts  
(Governance) Act 2006**;

*Crown Land Minister* means the Minister for the  
time being administering the **Crown Land  
(Reserves) Act 1978**;

*Local Government Minister* means the Minister  
for the time being administering the **City of  
Melbourne Act 2001**.

S. 57  
substituted by  
No. 74/2006  
s. 22.

**58 Sewers and drains**

S. 58  
substituted by  
No. 74/2006  
s. 22.

(1) On the appointed day—

- (a) all public sewers and drains in the  
docklands area; and
- (b) all sewers and drains in and under roads in  
the docklands area; and
- (c) all works and materials relating to the sewers  
and drains referred to in paragraphs (a)  
and (b)—

vested in the Authority under this Act are divested  
from the Authority and are deemed to be vested in  
the Melbourne City Council under section 198 of  
the **Local Government Act 1989** and are under

the management and control of the Melbourne City Council.

- (2) This section does not apply to any sewers and drains vested in a Minister, the Crown or any public body other than the Authority.

S. 59  
substituted by  
No. 74/2006  
s. 22.

## 59 Roads

- (1) Subject to sections 36 and 37 of the **Road Management Act 2004**, on the appointed day all public highways in the docklands area vested in fee simple in the Authority are divested from the Authority and are vested in fee simple in the Melbourne City Council.
- (2) Subsection (1) does not apply to any public highway specified by the Minister (after consulting with the Local Government Minister) by Order published in the Government Gazette before the appointed day.
- (3) On the appointed day, the Authority is deemed (subject to any regulations for the purpose of section 37(1)(c) of the **Road Management Act 2004**) to be the relevant road authority for the purposes of the **Road Management Act 2004** in respect of any public highway in the docklands area that does not vest in the Melbourne City Council under this section.
- (4) In this section *public highway* has the same meaning as it has in the **Local Government Act 1989**.

S. 60  
substituted by  
No. 74/2006  
s. 22.

## 60 Authorised officers

Any person who immediately before the appointed day was an authorised officer under section 35H (as in force before its repeal) is deemed to be appointed by the Melbourne City Council under section 224 of the **Local Government Act 1989** as an authorised officer.

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**61 Rates**

On and after the appointed day all rates and charges declared by the Authority under Part 3A (before its repeal) and not paid before the appointed day are payable to the Melbourne City Council.

S. 61  
substituted by  
No. 74/2006  
s. 22.

**62 Transitional orders**

- (1) The Governor in Council, on the joint recommendation of the Minister and the Local Government Minister, may by Order provide for any matter necessary or convenient to give effect to the return of the docklands area to the municipal district of the City of Melbourne.
- (2) Without limiting the generality of subsection (1), an Order may provide for—
  - (a) the Melbourne City Council to be the successor in law to the Authority in relation to any matter;
  - (b) any property, income, assets, rights, liabilities, expenses or other matters to be apportioned, settled, transferred, adjusted or determined, including transfers to the Crown;
  - (c) the application, continuation, review, amendment or revocation of existing local laws;
  - (d) despite anything to the contrary in any other Act, the substitution of the Melbourne City Council as a party to any contract or agreement entered into by the Authority in relation to land reserved, or to be reserved, under Division 2 of which the Melbourne City Council is, or is to be, the committee of management;

S. 62  
substituted by  
No. 74/2006  
s. 22.

- (e) the payment of money out of the Docklands Fund to the Melbourne City Council or the Crown;
  - (f) transitional provisions in relation to any act, matter or thing done or required to be done by or in relation to the Melbourne City Council or the Authority.
- (3) Sections 220S(1) and 220S(2) (except paragraphs (h) to (j)) of the **Local Government Act 1989** apply with any necessary modifications to an Order made under this section.
- (4) The Authority and the Melbourne City Council must comply with any Order made under this section.

S. 63  
substituted by  
No. 74/2006  
s. 22.

### 63 Voters' roll

The Local Government Minister may direct the Authority to provide information to the Melbourne City Council on any voters' roll which existed in relation to the docklands area immediately before the appointed day.

S. 64  
substituted by  
No. 74/2006  
s. 22.

### 64 Indemnity

Despite the repeal of section 35J, that section continues to apply in relation to anything done before the appointed day in relation to a municipal function conferred on the Authority.

S. 65  
inserted by  
No. 74/2006  
s. 22.

### 65 Authority and Melbourne City Council may enter into an agreement

- (1) The Authority and Melbourne City Council may enter into an agreement in relation to any matter associated with the return of the docklands area to the municipal district of the City of Melbourne.

- (2) An agreement made under subsection (1) must—
- (a) provide for the prescribed matters; and
  - (b) not be inconsistent with this Part or any Order made under this Part.

**Division 2—Land to be reserved**

**66 Reservation of land for public purposes**

S. 66  
inserted by  
No. 74/2006  
s. 22.

- (1) The Minister and the Crown Land Minister on—
- (a) receiving a plan of survey of certain land signed by the Surveyor-General; and
  - (b) being satisfied that the land described on the plan of survey corresponds as nearly as practicable with the land or part of the land shown hatched on plan number  
LEGL./06-071 lodged in the Central Plan  
Office of the Department of Sustainability  
and Environment—
- may make a joint recommendation to the Governor in Council that the land shown on the plan of survey be reserved for public purposes.
- (2) On receiving a recommendation under subsection (1), the Governor in Council may, by Order published in the Government Gazette, reserve the land on the plan of survey for public purposes.
- (3) On publication of the Order under subsection (2) in the Government Gazette—
- (a) if any of the land shown on the plan of survey is vested in the Authority, the land is—
    - (i) divested from the Authority; and
    - (ii) deemed to be unalienated Crown land freed and discharged from all limitations; and

- (iii) deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes; and
  - (b) if any of the land shown on the plan of survey is unreserved Crown land, the land is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes; and
  - (c) if the Order so provides, the Melbourne City Council is deemed to be the committee of management under the **Crown Land (Reserves) Act 1978** of the land shown on the plan of survey.
- (4) This section is subject to sections 68, 69 and 70.
- (5) Nothing in this section prevents the re-reservation under this section of land which had previously been reserved under this section.

S. 67  
inserted by  
No. 74/2006  
s. 22.

## 67 Surrender or divesting of land

- (1) The Governor in Council, by Order published in the Government Gazette may—
  - (a) require land in the docklands area that is vested in the Authority to be surrendered to the Crown;
  - (b) divest land in the docklands area from the Authority.
- (2) The Authority must comply with a requirement under subsection (1)(a).
- (3) On—
  - (a) the conveyance to the Crown or the registration of an instrument of transfer and surrender to the Crown of land that the Authority is required to surrender under subsection (1)(a); or

- 
- (b) the publication in the Government Gazette of an Order under subsection (1)(b)—
- the land concerned is deemed to be unalienated Crown land and is freed and discharged from all limitations.
- (4) On the occurrence of an event described in subsection (3)—
- (a) the land concerned is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes; and
- (b) if the Order under subsection (1) so provides, the Melbourne City Council is deemed to be the committee of management under the **Crown Land (Reserves) Act 1978** of that land.
- (5) A power may only be exercised under subsection (1) on the joint recommendation of the Minister and the Crown Land Minister.
- (6) A joint recommendation may only be made under subsection (5) if the Ministers are satisfied that the land is required for public purposes.
- (7) If requested by the Secretary to the Department of Sustainability and Environment, the Authority must provide information to the Secretary on any surrender of land by, or divestment of land from, the Authority under this section.
- (8) This section is subject to sections 68, 69 and 70.
- (9) Nothing in this section prevents the re-reservation under this section of land which had previously been reserved under this section.
-

S. 68  
inserted by  
No. 74/2006  
s. 22.

## 68 Preservation of leases

- (1) In this section *lease* includes an agreement, licence, option to renew or other interest arising under or in relation to a lease (whether or not the lease has expired) and an interest in the nature of a lease and *sub-lease* has a corresponding meaning.
- (2) The status or continuity of any lease of land that was entered into by the Authority and was existing immediately before the land was reserved under section 66 or 67 is not affected by that reservation or by the operation of that section.
- (3) A lease referred to in subsection (2) has effect—
  - (a) as a lease between—
    - (i) if the Melbourne City Council is the committee of management of the leased land, the Melbourne City Council as lessor and the lessee for the time being under the lease, as if it had been assigned to the Melbourne City Council; or
    - (ii) in any other case, the Crown as lessor and the lessee for the time being under the lease, as if it had been assigned to the Crown; and
  - (b) as if it referred to the Melbourne City Council or the Crown (as the case may be) instead of to the lessor (however described).
- (4) If requested by the Melbourne City Council, the Authority must provide to the Council such information as the Council reasonably requires on any lease for which it is to become the lessor under this section.
- (5) The status or continuity of any sub-lease existing over the land affected by a lease referred to in subsection (2) immediately before the land was



reserved under section 66 or 67 is not affected by that reservation or by the operation of that section.

- (6) This section has effect despite anything to the contrary in any Act or law or in a Crown grant of the land.
- (7) Nothing effected by this section is to be regarded as placing any person in breach of or as constituting a default under any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of the lease.
- (8) Despite anything to the contrary in the **Crown Land (Reserves) Act 1978**, if a lease referred to in subsection (2) (*the original lease*) ends before the term of the lease expires, the Melbourne City Council may grant a new lease over that land for a term up to the remaining term (including any option to renew) of the original lease.

**Note**

The Melbourne City Council, as committee of management of land reserved under the **Crown Land (Reserves) Act 1978**, may generally grant leases over that land for a term not exceeding 21 years in accordance with the **Crown Land (Reserves) Act 1978**.

**69 Preservation of planning agreements**

S. 69  
inserted by  
No. 74/2006  
s. 22.

The status or continuity of any agreement entered into by the Authority under section 173 of the **Planning and Environment Act 1987** or section 24(2) of this Act and existing immediately before the reservation of land under section 66 or 67 is not affected by—

- (a) the reservation of that land under section 66 or 67; or
- (b) the operation of section 68 or 70.

S. 70  
inserted by  
No. 74/2006  
s. 22.

## 70 Saving of rights

- (1) The reservation of land under section 66 or 67 and the operation of those sections do not affect any right existing over the land in favour of a person (other than the Authority) immediately before the date of that reservation.
- (2) On and from the date of reservation, any right referred to in subsection (1) has effect as if it had been granted by the Crown.
- (3) This section does not apply to a lease or sub-lease within the meaning of section 68.
- (4) In this section—

*right* means any easement, right in the nature of an easement, covenant or any other right created on a registered plan of subdivision within the meaning of the **Subdivision Act 1988** or recorded on a folio of the Register kept under the **Transfer of Land Act 1958**.

S. 71  
inserted by  
No. 74/2006  
s. 22.

## 71 Secretary to keep register

- (1) The Secretary to the Department of Sustainability and Environment must keep a register of all rights referred to in section 70(1).
- (2) The register must contain the prescribed information.
- (3) Any person may inspect the register on payment of the prescribed fee (if any).

S. 72  
inserted by  
No. 74/2006  
s. 22.

## 72 Agreement to extinguish right

- (1) The person who is the beneficiary of a right referred to in section 70(1) and the Crown Land Minister may by agreement extinguish the right to the extent that it applies to the person or to land owned by that person.

- 
- (2) The Secretary to the Department of Sustainability and Environment must record the extinguishment of a right by agreement under this section in the register kept under section 71.

**73 No compensation payable**

No compensation is payable by the Crown in respect of anything done or arising out of this Division.

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S. 73  
inserted by  
No. 74/2006  
s. 22.

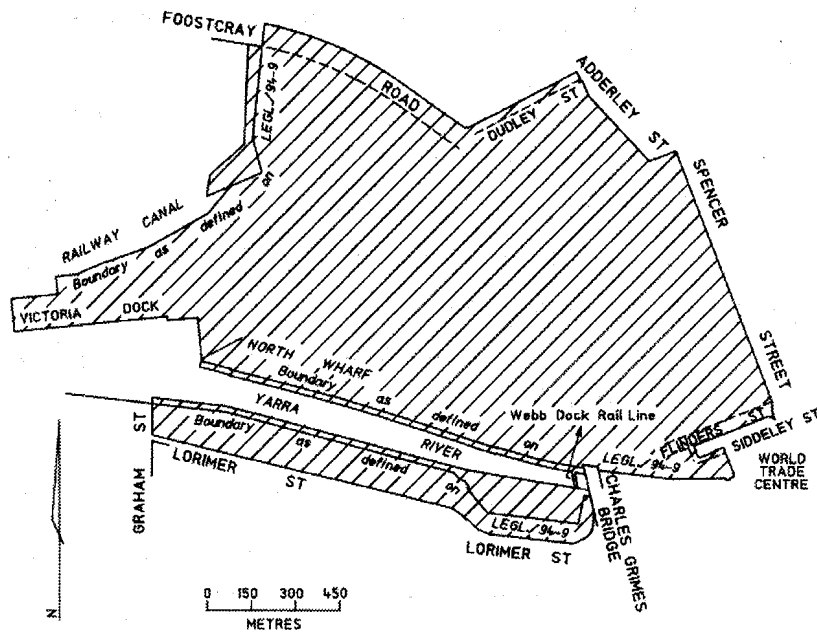
Sch. 1

## SCHEDULES

### SCHEDULE 1<sup>4</sup>

Sch. 1  
substituted by  
Nos 24/1993  
s. 10, 73/1996  
s. 17.

#### PLAN OF DOCKLANDS AREA



Docklands Act 1991  
No. 22 of 1991

Sch. 2

\* \* \* \* \*

Sch. 2  
amended by  
No. 44/2001  
s. 3(Sch.  
item 31),  
repealed by  
No. 59/2003  
s. 115.

\* \* \* \* \*

Sch. 3  
amended by  
No. 66/1997  
s. 7,  
repealed by  
No. 59/2003  
s. 115.

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## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 26 March 1991*

*Legislative Council: 23 April 1991*

The long title for the Bill for this Act was "A Bill to establish the Docklands Authority and to make other provision to facilitate the development of the docklands area and for other purposes."

The **Docklands Authority Act 1991** was assented on 21 May 1991 and came into operation as follows:

Sections 1–30, 32–57 on 5 June 1991: Government Gazette 5 June 1991 page 1450; section 31 on 20 July 1998: Government Gazette 16 July 1998 page 1924.

The name of this Act was changed from the **Docklands Authority Act 1991** to the **Docklands Act 1991** by Act No. 59/2003 section 91.

## 2. Table of Amendments

This Version incorporates amendments made to the **Docklands Act 1991** by Acts and subordinate instruments.

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### **Docklands Authority (Amendment) Act 1993, No. 24/1993**

*Assent Date:* 25.5.93  
*Commencement Date:* 25.5.93: s. 2  
*Current State:* All of Act in operation

### **Building Act 1993, No. 126/1993**

*Assent Date:* 14.12.93  
*Commencement Date:* S. 264(Sch. 5 item 6) on 1.7.94: Special Gazette (No. 42) 1.7.94 p. 1  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

### **Financial Management (Consequential Amendments) Act 1994, No. 31/1994**

*Assent Date:* 31.5.94  
*Commencement Date:* S. 4(Sch. 2 item 23) on 1.1.95: Government Gazette 28.7.94 p. 2055  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

### **Port Services Act 1995, No. 82/1995**

*Assent Date:* 8.11.95  
*Commencement Date:* S. 202 on 14.12.95: Government Gazette 14.12.95 p. 3488—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

### **Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* S. 10(1)(Sch. 1 item 3) on 30.4.96: Special Gazette (No. 45) 30.4.96 p. 1  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

### **Melbourne City Link Act 1995, No. 107/1995**

*Assent Date:* 12.12.95  
*Commencement Date:* S. 125 on 14.12.95: Special Gazette (No. 120) 14.12.95 p. 3  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

### **Parliament House Completion Authority Act 1996, No. 9/1996**

*Assent Date:* 25.6.96  
*Commencement Date:* 25.6.96: s. 2  
*Current State:* All of Act in operation

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Docklands Act 1991  
No. 22 of 1991

Endnotes
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**Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996**

*Assent Date:* 17.12.96  
*Commencement Date:* Pt 9 (ss 15–17) on 17.12.96: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Port Services (Amendment) Act 1997, No. 63/1997**

*Assent Date:* 5.11.97  
*Commencement Date:* S. 10(4)(Sch. items 1.1–1.6) on 10.12.97: Government Gazette 4.12.97 p. 3290  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Docklands Authority (Amendment) Act 1997, No. 66/1997**

*Assent Date:* 18.11.97  
*Commencement Date:* 18.11.97: s. 2  
*Current State:* All of Act in operation

**Rail Corporations (Amendment) Act 1997, No. 104/1997**

*Assent Date:* 16.12.97  
*Commencement Date:* S. 43 on 31.3.98: Special Gazette (No. 23) 31.3.98 p. 1  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Building (Amendment) Act 1998, No. 18/1998**

*Assent Date:* 5.5.98  
*Commencement Date:* S. 12 on 20.7.98: Government Gazette 16.7.98 p. 1924  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Transfer of Land (Single Register) Act 1998, No. 85/1998**

*Assent Date:* 17.11.98  
*Commencement Date:* S. 24(Sch. item 18) on 1.1.99: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Local Government (Governance and Melton) Act 1998, No. 86/1998**

*Assent Date:* 17.11.98  
*Commencement Date:* S. 13 on 17.11.98: s. 2(1); ss 3–12, 14–17 on 1.7.99: Government Gazette 17.6.99 p. 1406  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Rail Corporations (Further Amendment) Act 1998, No. 98/1998**

*Assent Date:* 24.11.98  
*Commencement Date:* S. 46 on 29.4.99: Government Gazette 29.4.99 p. 967  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**



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**Rail Corporations and Transport Acts (Amendment) Act 1999, No. 45/1999**

*Assent Date:* 8.6.99  
*Commencement Date:* S. 47 on 1.7.00: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Transport (Amendment) Act 2000, No. 30/2000**

*Assent Date:* 30.5.00  
*Commencement Date:* 31.5.00: s. 2  
*Current State:* All of Act in operation

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 35) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001**

*Assent Date:* 8.5.01  
*Commencement Date:* S. 3(Sch. item 22) on 1.6.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Corporations (Consequential Amendments) Act 2001, No. 44/2001**

*Assent Date:* 27.6.01  
*Commencement Date:* S. 3(Sch. item 31) on 15.7.01: s. 2  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Port Services (Port of Melbourne Reform) Act 2003, No. 23/2003**

*Assent Date:* 13.5.03  
*Commencement Date:* S. 26 on 3.11.03: Government Gazette 30.10.03 p. 2744  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Victorian Urban Development Authority Act 2003, No. 59/2003**

*Assent Date:* 16.6.03  
*Commencement Date:* Ss 91–115 on 1.8.03: Government Gazette 31.7.03 p. 2125  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

**Port Services (Port Management Reform) Act 2003, No. 85/2003**

*Assent Date:* 11.11.03  
*Commencement Date:* S. 32 on 1.4.04: Government Gazette 1.4.04 p. 714  
*Current State:* This information relates only to the provision/s amending the **Docklands Act 1991**

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**Local Government (Democratic Reform) Act 2003, No. 109/2003**

*Assent Date:* 9.12.03  
*Commencement Date:* Ss 8, 26 on 10.12.03: Special Gazette (No. 230)  
10.12.03 p. 3; s. 77 on 1.2.04: s. 2(2); ss 13, 91 on  
31.12.04: s. 2(4)  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 57) on 5.4.05: Government  
Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

**Transport Legislation (Further Miscellaneous Amendments) Act 2005,  
No. 95/2005**

*Assent Date:* 29.11.05  
*Commencement Date:* S. 12(2) on 13.12.05: Special Gazette (No. 254)  
13.12.05 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

**Owners Corporations Act 2006, No. 69/2006**

*Assent Date:* 19.9.06  
*Commencement Date:* S. 224(Sch. 3 item 3) on 31.12.07: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

**City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006**

*Assent Date:* 10.10.06  
*Commencement Date:* Ss 6–22 on 1.7.07: Government Gazette 28.6.07  
p. 1303  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006,  
No. 80/2006**

*Assent Date:* 10.10.06  
*Commencement Date:* S. 26(Sch. item 27) on 11.10.06: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Docklands Act 1991**

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### 3. Explanatory Details

<sup>1</sup> S. 3 def. of *Subordinate instrument*: The definition describes a subordinate instrument as having the same meaning as in the **Interpretation of Legislation Act 1984**, No. 10096/1984. As at the date of this publication, that Act provided that:

*Subordinate instrument* means an instrument made or to be made under or pursuant to the provisions of an Act, being an instrument that—

- (a) is a statutory rule; or
- (b) is not a statutory rule but—
  - (i) contains regulations, rules, by-laws, proclamations, Orders in Council, orders or schemes; or
  - (ii) is of a legislative character.

<sup>2</sup> S. 24(3): Section 24(3) provides that Part 9 Division 2 of the **Planning and Environment Act 1987**, No. 45/1987 applies to an agreement between the Authority and a land owner. At the date of this publication Part 9 Division 2 read as follows:

#### **Division 2—Agreements**

##### **173 Responsible authority may enter into agreements**

- (1) A responsible authority may enter into an agreement with an owner of land in the area covered by a planning scheme for which it is a responsible authority.
- (2) A responsible authority may enter into the agreement on its own behalf or jointly with any other person or body.
- (3) A responsible authority may enter into an agreement under subsection (1) with a person in anticipation of that person becoming the owner of the land.

S. 173(4) substituted by No. 48/1991 s. 63(1).

- (4) Despite anything in this Division, if an agreement entered into with a purchaser in anticipation of the purchaser becoming owner is registered by the Registrar of Titles, it does not bind the vendor unless the vendor assumes the purchaser's rights and obligations under the agreement.

S. 173(5) repealed by No. 86/1989 s. 4(2)(j).

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#### **174 Form and contents of agreement**

- (1) An agreement must be under seal and must bind the owner to the covenants specified in the agreement.
- (2) An agreement may provide for any one or more of the following matters—
- (a) the prohibition, restriction or regulation of the use or development of the land;
  - (b) the conditions subject to which the land may be used or developed for specified purposes;
  - (c) any matter intended to achieve or advance—
    - (i) the objectives of planning in Victoria;  
or
    - (ii) the objectives of the planning scheme or any amendment to the planning scheme of which notice has been given under section 19;
  - (d) any matter incidental to any one or more of the above matters.

#### **175 Bonds and guarantees**

S. 175(1) amended by No. 86/1989 s. 4(2)(k).

(1) An agreement other than an agreement with a Minister may include a condition that the owner is to deposit with the responsible authority—

(a) a sum of money fixed by or determined in accordance with the agreement; or

**S. 175(1)(b) amended by No. 86/1989 s. 22.**

(b) an undertaking to pay that sum together with security in a form determined by or in accordance with the agreement.

(2) The agreement may provide that the sum or part of the sum is forfeited if there is any failure by the owner to carry out the agreement to the satisfaction of the responsible authority.

(3) Any money paid must be returned to the owner on a date or dates specified in the agreement to the extent that it has not been forfeited.

(4) Any money payable under this section is a charge on the land which is the subject of the agreement.

#### **176 When does an agreement begin?**

An agreement may provide that the agreement or any specified provision of the agreement comes into effect on or after—

(a) the coming into operation of a specified amendment to a planning scheme; or

(b) the granting of a permit permitting the use or development of the land or part of the land for a specified purpose; or

(c) the happening of a specified event; or

(d) a specified time; or

(e) the start or completion of a use or development or a specified part of a use or development.

### **177 When does an agreement end?**

S. 177(1) amended by No. 35/1995 s. 9(1)(a).

- (1) An agreement may provide that the agreement ends wholly or in part or as to any part of the land on or after—
  - (a) the happening of any specified event; or
  - (b) a specified time; or
  - (c) the cessation of the use or the development of the land or any part of the land for a specified purpose.

S. 177(2) amended by No. 35/1995 s. 9(1)(b).

- (2) An agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

### **178 Amendment of agreements**

An agreement may, with the approval of the Minister, be amended by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

### **179 Agreement to be lodged with Minister**

- (1) The responsible authority must lodge a copy of an agreement at the office of the Minister without delay after the agreement is made.
- (2) The responsible authority must keep a copy of each agreement indicating any amendment made

to it available at its office for any person to inspect during office hours free of charge.

### **180 Agreement may not breach planning scheme**

An agreement must not require or allow anything to be done which would breach a planning scheme or a permit.

S. 181(1) amended by No. 85/1998 s. 24(Sch. item 45.4).

### **181 Registration of agreement**

- (1) A responsible authority may apply to the Registrar of Titles to register an agreement relating to land other than Crown land.
- (2) An application must include a copy of the agreement to which it relates and the prescribed particulars.

S. 181(3) amended by Nos 18/1989 s. 13(Sch. 2 item 63(e)), 85/1998 s. 24(Sch. item 45.5).

- (3) The Registrar of Titles must make a recording of the agreement in the Register.

S. 181(4) amended by No. 86/1989 s. 4(2)(l), substituted by No. 85/1998 s. 24(Sch. item 45.6).

- (4) The amendment of this Act by section 24 of the **Transfer of Land (Single Register) Act 1998** does not affect the operation, effect or enforcement of a covenant in an agreement registered under the **Property Law Act 1958** before the commencement of that section 24 and existing immediately before that commencement.

S. 181(5) repealed by No. 85/1998 s. 24(Sch. item 45.6).

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S. 182 amended by Nos 18/1989 s. 13(Sch. 2 item 63(f)), 85/1998 s. 24(Sch. item 45.7).

### **182 Effect of registration**

After the making of a recording in the Register—

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(a) the burden of any covenant in the agreement runs with the land affected; and

(b) the responsible authority may enforce the covenant against any person deriving title from any person who entered into the covenant as if it were a restrictive covenant despite the fact that it may be positive in nature or that it is not for the benefit of any land of the responsible authority.

### **183 Cancellation or alteration of registration**

S. 183(1) amended by No. 35/1995 s. 9(1)(c).

(1) The responsible authority must tell the Registrar of Titles in the prescribed manner without delay of the ending of any agreement wholly or in part or as to any part of the land or any amendment to an agreement.

S. 183(2) amended by No. 48/1991 s. 63(2), substituted by No. 35/1995 s. 9(2), amended by No. 85/1998 s. 24(Sch. item 45.8).

(2) The Registrar of Titles must, as appropriate, cancel in whole or in part or alter the recording of the agreement in the Register or make a recording in the Register of the matters notified under subsection (1).

S. 183(3) amended by No. 86/1989 s. 4(2)(i), substituted by No. 85/1998 s. 24(Sch. item 45.9).

(3) This section does not apply to an agreement in respect of Crown land.

S. 183(4) repealed by No. 85/1998 s. 24(Sch. item 45.9).

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### **184 Application to Tribunal**

S. 184(1) amended by No. 52/1998 s. 191(1).

(1) An owner of land may apply to the Tribunal for an amendment to a proposed agreement if—

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- (a) under a planning scheme or a permit the use or development of land for specified purposes is conditional upon an agreement being entered into under this Division; and
  - (b) the owner objects to any provision of the agreement.
- (2) The Tribunal may approve the proposed agreement with or without amendments.

**S. 184(3) inserted by No. 48/1991 s. 63(3), amended by No. 52/1998 s. 191(1).**

- (3) A purchaser of land who is a party to an agreement, or an owner of land, may apply to the Tribunal for an amendment to the agreement to remove the land from the application of the agreement, if the parties to the agreement cannot agree that the agreement should be amended.

**S. 184(4) inserted by No. 48/1991 s. 63(3).**

- (4) The Tribunal may approve the amendment if—
- (a) it considers that the land owner is not subject to any further liability under the agreement; or
  - (b) having regard to any relevant permit, or requirements under the **Subdivision Act 1988**, it considers it inappropriate that the agreement should continue to apply to the land and the owner.

**Note:** Section 31(3) of the **Planning and Environment (Amendment) Act 1989**, No. 86/1989 reads as follows:

- (3) Division 2 of Part 9 of the Principal Act continues to apply to an agreement entered into between a responsible authority and the occupier of Crown land before the date of commencement of this section, as if section 4 of this Act had not been enacted.

<sup>3</sup> S. 25(7): Section 25(7) provides that certain provisions of the **Water Act 1989**, No. 80/1989 apply to charges imposed by the Authority. At the date of this publication, sections 262, 263, 266 and Part 13 Division 7 read as follows:

## **262 Valuations**

An Authority that sets a tariff may—

(a) use the most recent municipal valuation; or

**S. 262(b) amended by No. 91/1994 s. 36(12).**

(b) cause its own valuation to be made by a valuer—

for the purposes of fixing the amount of any fee imposed in relation to that property under the tariff.

## **263 Supplementary valuations**

- (1) An Authority may alter the amount of a fee imposed under a tariff in respect of a property if a supplementary valuation of the property is made in accordance with section 13DF of the **Valuation of Land Act 1960**.
- (2) An Authority may request a municipal council to arrange for a supplementary valuation to be made at the Authority's expense.
- (3) The **Valuation of Land Act 1960** applies, with any necessary modifications, to a supplementary valuation made at the request of an Authority as if it were a supplementary valuation made in accordance with section 13DF of that Act.
- (4) If a supplementary valuation is made because of an event that happens during a financial year, a

proportion of the amount of the fee imposed under the tariff, as altered, is payable for the part of the financial year after the supplementary valuation, and a proportion of the original amount of the fee imposed under the tariff is payable for the part of the financial year before the supplementary valuation.

## **266 Application for review**

(1) A person who is aggrieved by the setting of a tariff, or the imposing of a fee under a tariff, by an Authority may, within 1 month after receipt of the demand for payment, object in writing to the Authority on any of the following grounds—

(a) where the fee imposed under the tariff is based on valuation of the land, that the land is not rateable;

(b) that the person is not liable for the tariff;

**S. 266(1)(c) amended by No. 110/1997 s. 22(2).**

(c) that the tariff was not set in accordance with any plans for tariffs included in the Authority's corporate plan;

(d) that the Authority did not give the required notice that the property is a serviced property;

(e) that the fee imposed by the Authority is not a correct application of the tariff as set.

(2) An Authority must, within 2 months after receipt of an objection from a person, notify the person of its decision on the objection.

(3) If an Authority has not notified the person of its decision within 2 months after the objection was made, the Authority must be taken to have notified the person of its decision to overrule the objection at the expiry of the 2 month period.

**S. 266(4) substituted by No. 52/1998 s. 311(Sch. 1 item 105.44).**

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- (4) A person who has objected may apply to the Tribunal for review of the Authority's decision on the objection on any of the grounds specified in subsection (1).

S. 266(4A) inserted by No. 52/1998 s. 311(Sch. 1 item 105.44).

- (4A) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (5) An objection does not prevent the recovery of any fee or interest due under a tariff.

S. 266(6) amended by Nos 91/1994 s. 31, 52/1998 s. 311(Sch. 1 item 105.45) (as amended by No. 101/1998 s. 22(1)(q)).

- (6) A person who objects to—
- (a) the calculation or application of a valuation equalisation factor; or
  - (b) the fixing of different fees imposed under a tariff under section 259(5) that are based on valuation—
- may apply to the Tribunal for review in accordance with Part III of the **Valuation of Land Act 1960**.

S. 266(6A) inserted by No. 52/1998 s. 311(Sch. 1 item 105.46).

- (6A) The provisions of Division 4 of Part III of the **Valuation of Land Act 1960**, with such modifications as are necessary, apply to an application under subsection (6).

S. 266(7) amended by No. 52/1998 s. 311(Sch. 1 item 105.47).

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- (7) If a tariff is quashed by the Tribunal under this section, the Authority may—
- (a) set a new tariff for the particular year, even if the year has ended; and
  - (b) retain any amount paid to it by a person in respect of that tariff on account of any amount payable by that person in respect of the next effective tariff set.

### **Division 7—Payment and recovery of money**

S. 273A inserted by No. 25/1993 s. 13.

#### **273A Occupiers liable for costs based on water supplied**

- (1) This section applies if a property to which water is supplied by an Authority—

S. 273A(1)(a) amended by No. 109/1997 s. 533(Sch. 2 item 12.1).

- (a) is occupied by a tenant under a tenancy agreement to which the **Residential Tenancies Act 1997** applies (whether wholly or partly); or
  - (b) is a site in a caravan park occupied by a resident of the caravan park—
- and the quantity of water supplied to the property is measured by a meter provided or installed by the Authority that only measures that quantity.
- (2) The occupier of the property is liable for the cost of all water supplied to the property during the time the occupier occupies the property if that cost is based solely on the amount of water that is supplied to the property.
- (3) If the cost of the water supplied to a property during the time the occupier occupies the property is only partly based on the amount of water supplied to the property, the occupier of the property is liable for that part of the cost that is

based on the amount of water supplied to the property.

- (4) The owner of a property is not liable for any amount that an occupier of the property is liable for under this section and any such amount cannot be made a charge on the land of the owner.
- (5) This section overrides anything to the contrary in section 170 but is subject to anything to the contrary in section 273B.
- (6) In this section and section 273B, if an occupier of a property only occupies a part of the property, then a reference to the property is to be read as a reference to the part of the property occupied by the occupier.

S. 273A(7) substituted by No. 109/1997 s. 533(Sch. 2 item 12.2).

- (7) In this section—
  - (a) *caravan* and *site* have the meanings they have in the **Residential Tenancies Act 1997**; and
  - (b) *resident* in relation to a caravan park, means a person who is a resident within the meaning of the **Residential Tenancies Act 1997**.

S. 273B inserted by No. 25/1993 s. 13.

**273B Authority must read meter when tenant arrives and departs**

- (1) This section applies if a property to which water is supplied by an Authority—

S. 273B(1)(a) amended by No. 109/1997 s. 533(Sch. 2 item 12.3).

- (a) is occupied, or to be occupied, by a tenant under a tenancy agreement to which the **Residential Tenancies Act 1997** applies (whether wholly or partly); or

- (b) is a site in a caravan park occupied, or to be occupied, by a resident of the caravan park—  
and the quantity of water supplied to the property is measured by a meter provided or installed by the Authority that only measures that quantity.
- (2) The tenant or resident must notify the Authority that he or she will occupy or vacate, or has occupied or vacated, the property.
- (3) The Authority must ensure that the reading on the meter measuring the quantity of water supplied to the property is recorded on the day the tenant or resident occupies or vacates the property or as soon as is practicable after that day.
- (4) Subsection (3) does not apply unless the Authority is given at least 48 hours notice of the day of occupation or vacation.
- (5) If the Authority is not given at least 48 hours notice of the occupation or vacation of a property, it must ensure that the reading on the meter measuring the quantity of water supplied to the property is recorded within 48 hours of it being given notice that a property has been occupied or vacated by a tenant or resident or as soon as is practicable after it is given notice.
- (6) If a tenant or resident occupies a property, the landlord or caravan park owner is liable for the cost of all water supplied to the property until the Authority records the reading on the meter on or after the date of occupation.
- (7) If a tenant or resident fails to notify the Authority that he or she has occupied a premises within 48 hours of occupying the property—
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- (a) he or she is liable for the cost of all water supplied to the property since the meter was last read on behalf of the Authority; and
  - (b) subsection (6) does not apply.
- (8) If a tenant or resident fails to notify the Authority that he or she has vacated a property within 48 hours of vacating the property, he or she is liable for the cost of all water supplied to the property until—
- (a) the Authority next records the reading on the meter; or
  - (b) the end of the billing period in which the vacation occurred—
- whichever happens first.
- (9) No time falling on a Saturday, Sunday or holiday is to be included in calculating any period of time for the purposes of this section.
- (10) In this section—

S. 273B(10)(a) substituted by No. 109/1997 s. 533(Sch. 2 item 12.4).

- (a) *caravan* and *site* have the meanings they have in the **Residential Tenancies Act 1997**; and

S. 273B(10)(aa) inserted by No. 109/1997 s. 533(Sch. 2 item 12.4).

- (aa) *resident* in relation to a caravan park, means a person who is a resident within the meaning of the **Residential Tenancies Act 1997**;

S. 273B(10)(b) amended by No. 46/1998 s. 7(Sch. 1).

- (b) *holiday*, in relation to an area, means any public holiday appointed or observed in a



municipal council referred to in the Schedule  
to the **Public Holidays Act 1993**.

## **274 Payment to Authorities**

**S. 274(1) amended by Nos 25/1993 s. 14(b)(i)(A)(B), 69/1993 s. 8(a).**

- (1) A fee imposed under a tariff is due and must be paid by the date specified in the notice requiring payment, being a date—
  - (a) after the date on which notice of the resolution that sets the tariff was published under section 260(2); and
  - (b) at least 28 days after the date of issue of the notice—

unless payment by instalments is available in accordance with a resolution under subsection (1A) and the person liable to pay the amount chooses to pay by instalments in accordance with subsections (2) and (3).

**S. 274(1A) inserted by No. 69/1993 s. 8(b).**

- (1A) An Authority—
  - (a) must by resolution determine that any fee imposed on an annual basis under a tariff is payable to it by instalments as specified in the resolution; and
  - (b) may by resolution determine that any other fee payable to it under a tariff is payable by instalments as specified in the resolution.

**S. 274(1B) inserted by No. 69/1993 s. 8(b).**

- (1B) A resolution under subsection (1A) has no effect until the day on which notice of the making of the resolution is published in a newspaper circulating generally in the area concerned.

S. 274(1C) inserted by No. 69/1993 s. 8(b).

- (1C) An Authority must ensure that a resolution under subsection (1A)(a) is in force at all times from the beginning of the ninetieth day after the commencement of section 8 of the **Water (Amendment) Act 1993**.

S. 274(1D) inserted by No. 69/1993 s. 8(b).

- (1D) Despite any resolution in force under subsection (1A)(a) and anything to the contrary in this section, an Authority is not required to accept payment by instalments of a fee imposed on an annual basis under a tariff if the Minister, at the written request of the Authority, has approved it not being required to do so.

S. 274(2) amended by No. 121/1994 s. 195(1).

- (2) A person who is liable to pay to an Authority—  
(a) an amount under Division 6, other than an amount required under section 268(2) or 269; or

S. 274(2)(b) amended by No. 69/1993 s. 8(c).

- (b) a fee imposed under a tariff that, in accordance with a resolution under subsection (1A), is payable by instalments\*;  
or  
(c) with the consent of the Authority, any other fee or amount—

may, by notice in writing to the Authority within 14 days after receipt of the notice setting the due date for payment, choose to pay by instalments, and must make each payment, and any payment of

interest due in respect of it, by the date specified by the Authority.

- (3) The date specified for the payment of the first instalment must be at least 14 days after the date of issue of the notice to the person that payment is required.

S. 274(3A) inserted by No. 121/1994 s. 195(2).

- (3A) A person who is liable to pay to an Authority an amount under Division 6 which under subsection (1) the person has, on or after the commencement of section 195(2) of the **Water Industry Act 1994**, chosen to pay by instalments, is liable to pay interest in accordance with section 281 on any part of that amount that is unpaid from the due date for payment despite the arrangement for payment of that amount by instalments.

S. 274(4) amended by No. 25/1993 s. 14(b)(ii).

- (4) Any amount due to an Authority in relation to a property (including interest and including any amount in respect of a licence under Part 4 or 5) is a debt due to the Authority by the person liable to pay the amount.

S. 274(4A) inserted by No. 25/1993 s. 14(b)(iii).

- (4A) If the person liable to pay an amount to an Authority in relation to a property owns the property, the amount due is a charge on the property, whether or not the Authority has agreed to defer the payment of the whole or any part of that amount.

S. 274(5) amended by No. 25/1993 s. 14(b)(iv).

- (5) In subsections (4) and (4A), **Authority** includes the Minister.

S. 274(6) inserted by No. 78/1991 s. 20.

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- (6) At the written request of the person liable to make a payment to an Authority, the Authority may send the notice requiring the payment to a person specified in the request.

**275 Person who acquires property is liable**

S. 275(1) amended by No. 25/1993 s. 14(c).

- (1) A person who becomes the owner of a property must pay to the Authority at the time the person becomes the owner of the property any amount that is, under section 274(4A), a charge on that property.
- (2) In subsection (1), *Authority* includes the Minister.

**276. Authority may require occupier to pay rent to it**

S. 276(1) amended by No. 25/1993 s. 14(d).

- (1) An Authority may, by notice in writing to the occupier of a property in respect of which any payment or fee, or any amount in respect of a licence under Part 4 or 5, is due by the owner of the property and has not been paid, require the occupier to pay rent to the Authority instead of to the lessor until the amount outstanding (including any interest) has been paid.
- (2) The Authority must give to the lessor 7 days' notice of its intention to act under subsection (1).
- (3) An occupier who pays rent to the Authority as required by a notice under subsection (1)—
- (a) is entitled to deduct from the rent due to the lessor any amount so paid; and
  - (b) must for the purposes of any tenancy law, be treated as paying that amount as rent to the lessor.
- (4) Subsection (3) does not apply if the occupier has, independently of the Authority, agreed with the

lessor to pay to the Authority the payments or fees due in relation to the property.

- (5) The Authority must not require to be paid to it any amount that exceeds the amount of rent due to the lessor.
- (6) If an occupier fails to pay any amount due to the Authority under this section, the Authority may recover the unpaid amount as a debt due to it by the occupier.
- (7) In this section, *Authority* includes the Minister.

**277. Recovery as between owner and occupier**

- (1) If an Authority recovers any contribution or fee, or any amount in respect of a licence under Part 4 or 5, from an owner, and the owner had an agreement with the occupier that the occupier would pay the fee, contribution or amount, the owner may recover from the occupier, as a debt due to the owner, the amount paid to the Authority by the owner.
- (2) For the purposes of subsection (1)—
  - (a) the owner has the burden of proving that the occupier had agreed to pay the fee, contribution or amount; and
  - (b) *Authority* includes the Minister.

**278. Disposal of property for unpaid contributions, fees and other amounts**

- (1) An Authority may sell, or cause to be transferred to itself, any property in relation to which—
  - (a) any fee imposed under a tariff; or
  - (b) any payment under Division 6; or
  - (c) any payment under an agreement to service or supply the property; or

- (d) any payment in respect of a licence under Part 4 or 5—

has been due to the Authority and unpaid for at least 3 years.

- (2) Subsection (1) does not apply if—

- (a) the contribution, fee or amount has been waived; or
- (b) the contribution, fee or amount has been deferred for the period for which it is unpaid; or

S. 278(2)(c) amended by No. 25/1993 s. 14(e).

- (c) the person liable to pay has arranged with the Authority for payment by instalments of the amount due, and any instalments that have become due have been paid; or

S. 278(2)(d) inserted by No. 25/1993 s. 14(e).

- (d) the person liable to pay is not the owner of the property.

- (3) An Authority must not sell the property or cause it to be transferred, unless it has at least once in the 3 years tried, under section 274, 275, 276(1) or 276(6), to recover the money due to it.

S. 278(4) amended by No. 91/1994 s. 36(12).

- (4) An Authority must pay, for a transfer of property under subsection (1), an amount equal to or greater than a valuation of the property that is made by a valuer not more than 6 months before the date of the proposed transfer.

- (5) An Authority must in selling property under subsection (1)—

- (a) sell the property by auction; or

S. 278(5)(b) amended by No. 91/1994 s. 12.

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- (b) sell the property for an amount equal to or greater than a valuation of the property that is made by a valuer not more than 6 months before the date of the proposed sale.
- (6) At least 4 weeks before selling any property, or causing it to be transferred, under subsection (1), the Authority must—
  - (a) give public notice of its intention to do so; and
  - (b) serve, on any person who appears from the register or from any document registered in the office of the Registrar-General to have an estate or interest in the property, a notice requiring payment of any outstanding amounts referred to in subsection (1).

**S. 278(6A) inserted by No. 62/1995 s. 38.**

- (6A) The Registrar of Titles may register a transfer of property by an Authority under this section if the transfer is in a form approved by the Registrar of Titles.

**S. 278(6B) inserted by No. 62/1995 s. 38.**

- (6B) The Registrar of Titles may dispense with the production of the certificate of title for the purpose of registering the transfer.
- (7) In this section, **Authority** includes the Minister.

## **279 Application of proceeds**

- (1) An Authority that sells property, or causes it to be transferred, under section 278 must apply the proceeds of the sale, or the amount for which the land was transferred, as follows—
  - (a) first, in payment of all expenses incurred in connection with the sale or transfer;

- (b) secondly, in payment of the outstanding contributions, fees and other amounts, including interest;
  - (c) thirdly, in discharging any mortgages or charges, registered or not—
    - (i) of which the Authority has notice; and
    - (ii) over which the Authority's charge has priority—according to the priority of those mortgages or charges.
- (2) The Authority must, if the owner of the property can be traced, refund to the owner any surplus after the payments required by subsection (1)(a) to (c) have been made.
  - (3) If the owner cannot be traced, the Authority may, subject to subsection (5), retain and use any surplus after the payments required by subsection (1)(a) to (c) have been made.
  - (4) A person who claims an estate or interest in the property may apply to the Authority for payment of the value of that estate or interest from any surplus retained by the Authority.
  - (5) If the Authority is satisfied that an applicant is entitled to any payment it must make that payment.
  - (6) In this section, *Authority* includes the Minister.

## **280 Sale or transfer cancels encumbrances**

When an Authority sells property, or causes it to be transferred, under section 278—



- (a) the sale or transfer is free from all estates and interests over which the Authority's charge has priority; and

S. 280(b) amended by No. 85/1998 s. 24(Sch item 66.16).

- (b) the Registrar of Titles must, when registering the transfer, cancel any mortgages or charges registered as encumbrances on the land.

### **281 Interest on unpaid money\***

S. 281(1) amended by No. 78/1991 s. 22(1).

- (1) Any money due to an Authority under this Act, including an agreement which does not provide otherwise, bears interest at the rate set from time to time for the purposes of this section by the Authority from the date that the money becomes due to the date that it is paid.

S. 281(1A) inserted by No. 78/1991 s. 22(2).

- (1A) The rate set by the Authority must not be more than the rate fixed from time to time for the purposes of subsection (1) by the Governor in Council by Order.

S. 281(1B) inserted by No. 78/1991 s. 22(2).

- (1B) The Governor in Council may fix a maximum rate—
  - (a) by expressing it as a percentage; or
  - (b) by tying it to a specific floating institutional rate charged for loans or paid for borrowings by a public or commercial institution.

S. 281(1C) inserted by No. 78/1991 s. 22(2).

- (1C) If the Authority sets a new rate, the new rate takes effect on the date set by the Authority, and applies from that date to all money (other than interest) owing to the Authority on that date.
- (2) No interest is payable—

S. 281(2)(a) substituted by No. 69/1993 s. 9(a).

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- (a) in respect of a fee imposed under a tariff if the amount due is paid within the period after it becomes due fixed by the Authority by resolution; or

S. 281(2)(b) amended by No. 121/1994 s. 195(3).

- (b) except in the case of an amount under Division 6, if the person liable to pay the amount has arranged with the Authority for payment by instalments of the amount due, and any instalments that have become due have been paid.

S. 281(2A) inserted by No. 69/1993 s. 9(b).

- (2A) A resolution under subsection (2)(a) has no effect until the day on which notice of the making of the resolution is published in a newspaper circulating generally in the area concerned.
- (3) An Authority may exempt any person from paying the whole or part of any interest either generally or specifically.
- (4) In this section, **Authority** includes the Minister.

\* S. 281: The Crown is bound by this section (see s. 5(h)).

<sup>4</sup> Sch. 1: Section 12 of the **Docklands Authority (Amendment) Act 1993**, No. 24/1993 reads as follows:

## **12 Transitional provisions**

Until the publication in the Government Gazette of an Order approving a plan under section 4(3) of the Principal Act, the docklands area must be taken to be the area shown hatched on the plan in Schedule 1 of the Principal Act as in force immediately before the commencement of this Act.

Docklands Act 1991  
No. 22 of 1991

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At the date of this publication Orders had been published in the following Government Gazettes: 16 December 1993 page 3351, Special Gazette (No. 96) 22 December 1993 page 1, Government Gazette 9 June 1994 page 1451; Government Gazette 30 April 1998 page 976.

**Version No. 010**  
**Victorian Urban Development Authority Act**  
**2003**

**No. 59 of 2003**

Version incorporating amendments as at 9 February 2007

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**Version No. 010**  
**Victorian Urban Development Authority Act**  
**2003**

**No. 59 of 2003**

Version incorporating amendments as at 9 February 2007

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The main purpose of this Act is to establish the Victorian Urban Development Authority—

- (a) to carry out urban development; and
- (b) to develop the docklands area; and
- (c) to undertake declared projects; and
- (d) to assist in the implementation of government urban development policies and strategies (including Melbourne 2030).

**2. Commencement**

- (1) Subject to sub-section (2), this Act comes into operation on a day to be proclaimed.
- (2) If this Act does not come into operation on or before 1 July 2004, it comes into operation on that day.

**3. Definitions**

In this Act—

**"Authority"** means the Victorian Urban Development Authority established by this Act;

**"board"** means the board of directors of the Authority;

**"building"** includes—

- (a) a structure and part of a building or a structure; and
- (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and
- (c) a boat or a pontoon which is permanently moored or fixed to land;

**"declared project"** means a development or proposed development declared by a project order to be a project to which this Act applies;

**"development"** includes—

- (a) the construction or carrying out, extension, demolition or removal of a building or works;
- (b) the decoration or alteration of the inside or outside of a building or the alteration of works;
- (c) the subdivision or consolidation of land airspace or buildings;
- (d) the installation or provision or operation of facilities or services;
- (e) the relocation, deepening or widening of a waterway;

**"docklands area"** has the same meaning as in the **Docklands Act 1991**;

---

**"holding and selling costs"** in relation to land in a project area means—

- (a) any interest, administrative or other costs incurred by the Authority in or incidental to developing the land or selling it; and
- (b) any proportion of the costs incurred by the Authority in promoting the whole or part of the project area, that is a proportion that the Authority determines after considering the comparative areas of the land sold and the land promoted;

**"land"** includes—

- (a) buildings and other structures permanently fixed to land; and
- (b) land covered with water; and
- (c) any estate, interest, easement, servitude, privilege or right in or over land;

**"limitations"** in relation to land means trusts, reservations, restrictions, exceptions, encumbrances, limitations, rights, privileges, estates and interests;

**"project area"** means an area of land specified in a project order as the project area for the purposes of a declared project;

**"project order"** means an order under section 34;

**"public statutory body"** means a body established by or under an Act for a public purpose or a municipal council;

**"road"** includes bridge, highway, street, lane, footway, bicycle path, pedestrian walkway, square, court, alley or right of way, whether accessible to the public generally or not;

**"staff"** means any person who is employed or engaged by the Authority under section 16;

**"works"** includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil and land reclamation and land decontamination.

**4. Does the Authority represent the Crown?**

Except as expressly provided—

- (a) in section 6 of the **Docklands Act 1991**; or
- (b) in section 36 of this Act—

the Authority does not represent the Crown.

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**PART 2—VICTORIAN URBAN DEVELOPMENT  
AUTHORITY**

**Division 1—Establishment**

**5. Establishment**

- (1) There is established an authority by the name of "Victorian Urban Development Authority".
- (2) The Authority—
  - (a) is a body corporate with perpetual succession;
  - (b) has an official seal;
  - (c) may sue and be sued;
  - (d) may acquire, hold and dispose of real and personal property;
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of the Authority affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of the Authority must be kept in such custody as the Authority directs and must not be used except as authorised by the Authority.

**6. Authority may trade as VicUrban**

Despite anything to the contrary in the **Business Names Act 1962** or any other Act or law, the Authority may carry on business under the name "VicUrban".

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## Division 2—Functions and Powers

### 7. Functions

- (1) The functions of the Authority are—
- (a) to purchase, consolidate, take on transfer or otherwise acquire land in metropolitan and regional areas for development for urban purposes;
  - (b) to carry out development of land alone or in partnership or to enter into arrangements or agreements for the development of land;
  - (c) to develop land in Victoria for residential and other urban purposes to provide a competitive market for land in Victoria;
  - (d) to promote best practice in urban and community design and development, having regard to links to transport services and innovations in sustainable development;
  - (e) to assist in the implementation of government urban development policies and strategies;
  - (f) to contribute to improvements in housing affordability in Victoria;
  - (g) to provide consultancy services in relation to the development of land whether within or outside Victoria or outside Australia;
  - (h) to undertake and manage declared projects on behalf of the Crown;
  - (i) any other functions conferred on the Authority by this Act;
  - (j) the functions conferred on the Authority by the **Docklands Act 1991**;
  - (k) any functions conferred on the Authority by any other Act.



- (2) The functions of the Authority under this Act are to be carried out on a commercial basis.

#### **8. Powers of the Authority**

- (1) The Authority may—
- (a) purchase, take on transfer or otherwise acquire or dispose of real or personal property, and may dispose of any such property acquired by it;
  - (b) enter into contracts, agreements, leases and licences for the carrying out of its functions;
  - (c) act as agent of another person.
- (2) In addition to the powers in sub-section (1), the Authority has—
- (a) the powers conferred on the Authority by the **Docklands Act 1991**;
  - (b) the power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.

#### **9. Authority subject to the direction and control of the Minister**

- (1) The Authority is subject to the general direction and control of the Minister.
- (2) The Authority is subject to any specific direction given to it by the Minister with the approval of the Treasurer.
- (3) An agreement or arrangement or contract entered into under this Act in contravention of sub-section (2) is not void only because of that contravention.

**S. 9(3)  
inserted by  
No. 35/2006  
s. 3.**

## 10. Non-commercial functions

- (1) Despite section 7(2), the Minister, with the approval of the Treasurer, may direct the board—
  - (a) to perform certain functions that the Minister considers to be in the public interest but may cause the Authority to suffer financial detriment; or
  - (b) to cease to perform functions of a kind referred to in paragraph (a); or
  - (c) to cease to perform certain functions that the Minister considers not to be in the public interest.
- (2) The board must comply with a direction given under sub-section (1).
- (3) The reference in this section to suffering financial detriment includes a reference to incurring net costs that are greater than would have been incurred if the direction were not complied with.

## 11. Delegation

- (1) Subject to sub-section (2), the Authority may by instrument delegate all or any of its functions, powers or duties under this Act or the **Docklands Act 1991** or any other Act or under an agreement made under this Act or the **Docklands Act 1991** to—
  - (a) the chairperson of the Authority; or
  - (b) a director or group of directors of the Authority; or
  - (c) a member of staff of the Authority (by name or as the holder of a named position); or
  - (d) with the Minister's consent, any other person, by name or as the holder of a named position.

- 
- (2) Sub-section (1) does not apply to—
- (a) the power of delegation conferred on the Authority by this section;
  - (b) the power conferred on the Authority under section 50 of this Act;
  - (c) the powers conferred on the Authority under sections 25, 35D, 35E and 54 of the **Docklands Act 1991**.

**12. Authority may enter into joint ventures etc.**

- (1) Without limiting the generality of the powers referred to in section 8, the Authority may do all or any of the following—
- (a) form, or participate in the formation of, a corporation, trust, partnership or other body;
  - (b) subscribe for, or otherwise acquire, and hold and dispose of shares in, or debentures or other securities of, a corporation;
  - (c) subscribe for, or otherwise acquire, and hold and dispose of, units in a trust;
  - (d) act as a trustee;
  - (e) acquire and hold and dispose of an interest in a partnership or other body;
  - (f) enter into any contract or arrangement with a person for the sharing of profits, union of interest, co-operation, joint venture, reciprocal concessions or otherwise.
- (2) If the total investment involved in an activity authorised under sub-section (1) exceeds \$5 000 000 the Authority must obtain the approval of the Minister and the Treasurer.

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**13. Reciprocal arrangements with public sector agencies**

- (1) With the consent of the Governor in Council given on the Minister's recommendation the Authority may enter into an agreement or arrangement with a Minister, government department or public statutory body ("Public Sector Agency") concerning—
  - (a) the carrying out by the Authority and the Public Sector Agency of any of their respective functions or powers; or
  - (b) the carrying out or providing by the Authority for the Public Sector Agency, or by the Public Sector Agency for the Authority of any works or services; or
  - (c) the use or joint use by the Authority and the Public Sector Agency of their respective facilities or the services of their respective staff; or
  - (d) the allocating of funds collected under the agreement or arrangement.
- (2) If the Authority proposes to enter into an agreement or arrangement providing for the allocation of funds to be collected under the agreement or arrangement, the Minister must consult the Treasurer about the proposal before making any recommendation under subsection (1).

**14. Grant of land to Authority**

- (1) The Governor in Council, on the recommendation of the Minister, the Treasurer and the Minister for the time being administering section 12 of the **Land Act 1958**, may grant any unalienated land of the Crown to the Authority subject to any conditions, reservations and exceptions that the Governor in Council thinks fit.
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- (2) If the Authority sells any land granted to it under this section, the net proceeds of the sale of the land less any administrative costs, interest and other amounts expended by the Authority for or in relation to the development and sale of the land must be paid to the Consolidated Fund.

#### 15. Approval required for acquisition of private land

- (1) Despite section 8, the Authority must obtain the approval of the Minister and the Treasurer before purchasing, taking on transfer or otherwise acquiring land if the value of the land exceeds \$5 000 000.
- (2) This section does not apply to land—
- (a) acquired under the **Docklands Act 1991**; or
  - (b) acquired under Part 3 of this Act; or
  - (c) owned by the Crown, a public authority, a municipal council or the Commonwealth.

#### 16. Staff

- (1) The Authority may—
- (a) employ people; or
  - (b) enter into agreements or arrangements for the Authority to make use of the services of people—
- on terms and conditions (including payment for services) determined by the Authority.
- (2) The Authority may, in accordance with those terms and conditions, terminate any employment, engagement, agreement or arrangement under sub-section (1).
- (3) A person is not subject to the **Public Administration Act 2004** in respect of the person's employment or engagement by the Authority under sub-section (1).

S. 16(3)  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 230.1).

S. 16(4)  
amended by  
No. 108/2004  
s. 117(1)  
(Sch. 3  
item 230.1).

- (4) Any employees that are necessary for the purposes of this Act may be employed under Part 3 of the **Public Administration Act 2004**.
- (5) A person who at the time of appointment as a director of the Authority or a member of its staff was an officer within the meaning of the **State Superannuation Act 1988** continues, subject to that Act, to be an officer within the meaning of that Act.

### **Division 3—The Board**

#### **17. The board**

- (1) There shall be a board of directors of the Authority.
- (2) The board—
  - (a) is responsible for the management of the affairs of the Authority; and
  - (b) may exercise the powers of the Authority.

#### **18. Constitution of the board**

The board shall consist of—

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) no more than 7 other directors.

#### **19. Appointment of directors**

- (1) The chairperson, deputy chairperson and other directors of the Authority shall be appointed by the Governor in Council.

- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a director of the Authority in respect of the office of director.

S. 19(2)  
substituted by  
Nos 108/2004  
s. 117(1)  
(Sch. 3  
item 230.2),  
80/2006  
s. 26(Sch.  
item 114).

## 20. Terms and conditions of appointment

- (1) A director of the Authority shall be appointed for such term, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) A director of the Authority holds office, subject to this Act, on such terms and conditions as are determined by the Minister.
- (3) The Governor in Council may at any time remove a director from office.

## 21. Acting appointments

- (1) When—
  - (a) the office of chairperson of the board is vacant; or (b) the chairperson of the board is absent from Victoria or is, for any reason, unable to attend meetings of the board or otherwise unable to perform the duties of the office—

the deputy chairperson of the board must act as chairperson.
- (2) While the deputy chairperson of the board is acting as chairperson, the deputy chairperson has and may exercise all the powers and must perform all the duties of the chairperson.
- (3) The Minister may appoint a director of the Authority to act as deputy chairperson of the board—

- (a) during a vacancy in the office of deputy chairperson; or
  - (b) during any period, or during all periods, when the deputy chairperson is acting as chairperson or is unable, for any reason, to attend meetings of the board.
- (4) The Minister may appoint a person to act as a director (other than the chairperson or deputy chairperson) of the Authority—
  - (a) during a vacancy in the office of such a director; or
  - (b) during any period, or during all periods, when such a director is acting as deputy chairperson or is unable, for any reason, to attend meetings of the board.

## **22. Chief executive**

- (1) The board, with the approval of the Minister, may appoint a person as the chief executive of the Authority.
- (2) The chief executive of the Authority may be a director of the Authority but may not be the chairperson or the deputy chairperson.
- (3) The chief executive of the Authority holds office on such terms and conditions as are determined by the board with the approval of the Minister.
- (4) The board, with the consent of the Minister, may remove the chief executive of the Authority from office.

## **23. Vacancies, resignations, removal from office**

- (1) The office of a director of the Authority becomes vacant if the director—
  - (a) without the board's approval, fails to attend 3 consecutive meetings of the board; or



- (b) becomes an insolvent under administration within the meaning of the Corporations Act; or
  - (c) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence.
- (2) A director of the Authority may resign by writing delivered to the Minister.
- (3) If a director of the Authority—
  - (a) is convicted of an offence relating to his or her duties as a director; or
  - (b) fails, without reasonable excuse, to comply with section 29—the director must be removed from office by the Governor in Council.

#### **24. Validity of decisions**

- (1) An act or decision of the board is not invalid merely because of—
  - (a) a defect or irregularity in, or in connection with, the appointment of a director of the Authority; or
  - (b) a vacancy in the membership of the board, including a vacancy arising from the failure to appoint an original director.
- (2) Anything done by or in relation to a person purporting to act as chairperson, deputy chairperson or as a director is not invalid merely because—
  - (a) the occasion for the appointment had not arisen; or
  - (b) there was a defect or irregularity in relation to the appointment; or
  - (c) the appointment had ceased to have effect; or

- (d) the occasion for the person to act had not arisen or had ceased.

## **25. Proceedings of the board**

- (1) Subject to sub-section (2), meetings of the board shall be held at such times and places as the board determines.
- (2) The chairperson of the Authority may at any time convene a meeting but must do so when requested by a director of the Authority.
- (3) A majority of the directors for the time being of the Authority constitute a quorum of the board.
- (4) A question arising at a meeting of the board shall be determined by a majority of votes of directors of the Authority present and voting on that question and, if voting is equal, the person presiding has a casting, as well as a deliberative, vote.
- (5) The board must ensure that minutes are kept of each of its meetings.
- (6) Subject to this Act, the board may regulate its own proceedings.

## **26. Sub-committees**

- (1) The board may establish sub-committees, whether of its directors or not.
- (2) The board may determine the functions, membership and procedure of a sub-committee, determine the terms of appointment of its members and dissolve a sub-committee.

## **27. Participation in meetings by telephone etc.**

- (1) The Authority may permit its directors to participate in a particular meeting, or all meetings by—
  - (a) telephone; or

- (b) closed-circuit television; or
  - (c) any other means of communication.
- (2) A director who participates in a meeting under a permission under sub-section (1) is deemed to be present at the meeting.

## **28. Resolutions without meetings**

- (1) If—
- (a) the Authority has taken reasonable steps to give notice to each director setting out the terms of a proposed resolution; and
  - (b) a majority of directors for the time being of the board sign a document containing a statement that they are in favour of the resolution in the terms set out in the document—
- a resolution in those terms is deemed to have been passed at a meeting of the board held on the day on which the document is signed or, if the directors referred to in paragraph (b) do not sign it on the same day, on the day on which the last of those directors signs the document.
- (2) For the purposes of sub-section (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, are deemed to constitute one document.
- (3) If a resolution is deemed by this section to have been passed at a meeting of the board, each director must as soon as practicable be advised of the matter and given a copy of the resolution.
- (4) The majority of directors referred to in sub-section (1)(b) must not include a director who, because of section 29, is not entitled to vote on the resolution.

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## 29. Disclosure of interests

- (1) If—
- (a) a director of the Authority has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper performance of the director's duties in relation to the consideration of the matter—
- the director, as soon as practicable after the relevant facts come to the director's knowledge, must disclose the nature of the interest at a meeting of the board.
- (2) A disclosure under sub-section (1) must be recorded in the minutes of the meeting and, unless the Minister or the board otherwise determines, the director—
- (a) must not be present during any deliberation of the board in relation to the matter; and
  - (b) must not take part in any decision of the board in relation to the matter.
- (3) For the purpose of the making of a determination by the board under sub-section (2) in relation to a director who has made a disclosure under sub-section (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates—
- (a) must not be present during any deliberation of the board for the purpose of making the determination; and
  - (b) must not take part in the making by the board of the determination.

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- (4) Sub-sections (1) and (2) do not apply in relation to a matter relating to the supply of goods and services to the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

**30. Duties of directors**

- (1) A director of the Authority must at all times act honestly in the performance of the functions of his or her office.
- (2) A director of the Authority must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions.
- (3) A director, or former director, of the Authority must not make improper use of information acquired by virtue of his or her position as a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Authority.
- (4) A director of the Authority must not make improper use of his or her position as a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Authority.
- (5) This section has effect in addition to, and not in derogation of, this Act or any other Act or law relating to the criminal or civil liability of a member of the governing body of a corporation and does not prevent the institution of any criminal or civil proceedings in respect of such a liability.

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**31. Authority or Minister may bring proceedings**

If a person contravenes section 30 in relation to the Authority, the Authority or the Minister, in the name of the Authority, may recover from the person as a debt due to the Authority by action in a court of competent jurisdiction either or both of the following—

- (a) if that person, or any other person, made a profit as a result of the contravention, an amount equal to that profit;
- (b) if the Authority has suffered loss or damage as a result of the contravention, an amount equal to that loss or damage.

**32. Authority not to make loans to directors**

- (1) The powers of the Authority do not include a power, whether directly or indirectly—
  - (a) to make a loan to a director of the Authority, a spouse of such a director, or a relative (as defined in the Corporations Act) of such a director or spouse; or
  - (b) to give a guarantee or provide security in connection with a loan made or to be made by another person to a director, spouse or relative referred to in paragraph (a).
- (2) Nothing in sub-section (1) prohibits the Authority entering into an agreement or arrangement with a person referred to in sub-section (1) if similar agreements or arrangements are entered into by the Authority with members of the public on the same terms and conditions.

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**33. Limitations on indemnity**

- (1) The powers of the Authority do not include a power to exempt, whether directly or indirectly, a director of the Authority from, or to indemnify (whether by paying a premium in respect of a contract of insurance or otherwise) a director of the Authority against, any liability that by law would otherwise attach to the director in respect of a wilful breach of duty or breach of trust of which the director may be guilty in relation to the Authority.
  - (2) Nothing in this section is intended to limit the operation of section 35J of the **Docklands Act 1991**.
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## PART 3—POWERS RELATING TO DECLARED PROJECTS

### Division 1—Declared Projects

#### 34. Project order

- (1) The Governor in Council, on the recommendation of the Minister, may, by order published in the Government Gazette, declare a development or proposed development to be a project to which this Act applies.
- (2) A project order must specify—
  - (a) the provisions of Divisions 2, 3, 4, 5, 5A and 6 which are to apply in relation to a declared project; and
  - (b) the area of land (whether by reference to a map or otherwise) which is to be the project area for the purposes of the declared project.
- (3) The Minister must obtain the approval of the Treasurer before making a recommendation under this section.
- (4) In determining whether to make a recommendation under this section, the Minister must have regard to—
  - (a) the functions and powers of the Authority; and
  - (b) the current corporate plan of the Authority.
- (5) This Part does not apply to the docklands area.

S. 34(2)(a)  
amended by  
No. 35/2006  
s. 4.

#### 35. Application of Act

- (1) A provision of Division 2, 3, 4, 5, 5A or 6 does not apply to a declared project unless that provision is specified in the project order relating to the project.

S. 35(1)  
amended by  
No. 35/2006  
s. 4.



- (2) A function or power conferred on a Minister or the Authority by a project order is additional to and does not derogate from any other function or power of the Minister or the Authority under this Act or the **Docklands Act 1991** or any other Act or law.

**36. Authority represents the Crown in relation to project**

In undertaking and managing a declared project under this Part, the Authority represents the Crown.

**37. Authority to surrender land**

If land in a project area is vested in the Authority immediately before the project order is made, the Authority must, without delay, surrender the land to the Crown.

**38. This Part binds the Crown**

This Part binds the Crown.

**Division 2—Obtaining Land**

**39. Surrender or divesting of land of other bodies**

- (1) The Governor in Council, by Order published in the Government Gazette, may—
- (a) require a public statutory body in which land in the project area is vested to surrender part or all of the land to the Crown; or
  - (b) divest land in the project area from a public statutory body—
- for the purposes of a declared project.
- (2) A public statutory body must comply with a requirement under sub-section (1)(a).

- (3) On—
- (a) the conveyance to the Crown or the registration of an instrument of transfer and surrender to the Crown of land that a public statutory body is required to surrender under sub-section (1)(a); or
  - (b) the publication in the Government Gazette of an Order under sub-section (1)(b)—  
the land concerned is deemed to be unalienated land of the Crown and, subject to sub-section (4), is freed and discharged from all limitations.
- (4) The divesting or surrender of land under this section does not affect any reservation of the land under the **Crown Land (Reserves) Act 1978**.
- (5) A power may only be exercised under sub-section (1) on the joint recommendation of the Minister and the Minister administering the Act under which the public statutory body is created.

#### **40. Grant of land to the Authority**

- (1) The Governor in Council, on behalf of the Crown, may grant to the Authority for an estate in fee simple—
- (a) land divested or surrendered under this Part;  
or
  - (b) any other land in the project area that is or is deemed to be unalienated land of the Crown and is not reserved under the **Crown Land (Reserves) Act 1978**.
- (2) As a condition of granting land to the Authority, the Minister may require it to agree to pay into the Consolidated Fund or, if the land was surrendered by or divested from a public statutory body, to that body, the net proceeds of any sale of that land by the Authority, less any holding and selling costs.

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- (3) The payment referred to in sub-section (2) must be made at the times or over the period determined by the Minister.
  - (4) The grant—
    - (a) if it is of land covered with waters of the sea, must be limited to a depth of 60 metres below high water mark; and
    - (b) if it is for other land, must be limited to a depth of 60 metres below the surface of the land; and
    - (c) may contain any other terms, covenants, conditions or limitations that the Governor in Council determines.
  - (5) Land may be granted to the Authority with or without consideration being given by the Authority.
  - (6) Sections 339A and 339B of the **Land Act 1958** apply to a grant of land under this section as if it were a grant of land in fee simple under that Act.

#### **41. Acquisition by agreement**

- (1) For the purposes of a declared project, the Authority may acquire by agreement an interest in land on any terms (including consideration) that the Authority considers appropriate.
- (2) Any interest in land acquired by the Authority under this section vests in the Crown and is deemed to be unalienated land of the Crown.
- (3) The Authority must obtain the approval of the Minister and the Treasurer to an acquisition under this section if the value of the interest to be acquired exceeds \$5 000 000.

#### 42. Compulsory acquisition of land

- (1) For the purposes of a declared project, the Authority, with the approval of the Minister administering the **Planning and Environment Act 1987**, may acquire an interest in land by compulsory process.
- (2) The **Land Acquisition and Compensation Act 1986** applies to sub-section (1) and for that purpose—
  - (a) sub-section (1) is the special Act; and
  - (b) the Victorian Urban Development Authority is the Authority.
- (3) In determining the amount of compensation to be paid for the compulsory acquisition of land by the Authority, no allowance is to be made for any decrease or increase in the value of the land attributable to the declared project.
- (4) Any interest in land acquired by the Authority under this section—
  - (a) vests in the Crown under section 24 of the **Land Acquisition and Compensation Act 1986** despite anything to the contrary in that section; and
  - (b) is deemed to be unalienated land of the Crown.
- (5) The Authority must obtain the approval of the Minister and the Treasurer to an acquisition under this section if the value of the interest to be acquired exceeds \$5 000 000.

S. 42(3)  
substituted by  
No. 35/2006  
s. 5.

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**Division 3—Compensation for surrendered or divested land**

**43. Right to compensation on surrender or divesting**

- (1) Subject to this Act and the **Land Acquisition and Compensation Act 1986**, every person (other than a public statutory body) who immediately before the publication of an order under section 39 had a legal or equitable estate or interest in land to which the order applies, has a claim for compensation.
- (2) The **Land Acquisition and Compensation Act 1986** (except sections 31 to 36) applies to the determination of compensation payable under this section as if the publication of the order were a notice of acquisition of that estate or interest or right and the Minister had acquired that estate or interest or right on behalf of the Crown.
- (3) In determining the amount of compensation to be paid under this section, no allowance is to be made for the enhancement of the value of the land attributable to any action of the Authority.

**Division 4—Activities on land**

**44. Land management and use**

- (1) This section applies to land in the project area that is—
  - (a) Crown land; or
  - (b) land owned by the Authority.
- (2) The Authority may—
  - (a) grant leases or licences over land to which this section applies; or
  - (b) exercise any of its other functions or powers over land to which this section applies.

- (3) A lease or licence granted by the Authority over Crown land must be consistent with any reservation of the land.
- (4) The Authority may grant an easement or privilege over land owned by the Authority.

**45. Revocation of permanent and temporary reservations**

- (1) Subject to sub-section (3), the Governor in Council, on the recommendation of the Minister and the Minister administering the **Crown Land (Reserves) Act 1978**, may by Order published in the Government Gazette declare that the temporary or permanent reservation under that Act of land which is in the project area and which is described in the Order is revoked.
- (2) On the publication in the Government Gazette of an Order under sub-section (1)—
  - (a) any Order in Council reserving the land and any appointment of a committee of management for the land are revoked; and
  - (b) unless the Order otherwise provides, the land is, despite any Act or law to the contrary, deemed to be unalienated land of the Crown, freed and discharged from all limitations; and
  - (c) if the Order states that this paragraph applies, any Crown grant of that land made before the date of publication of the Order, and any other title document deriving from the grant is, and must be taken always to have been, as valid and effective as if the reservation of that land had been revoked before the grant was made.

- (3) This section does not apply to land reserved under paragraph (k), (l), (m), (n), (o), (t), (v), (w), (x), (zb), (zd), (ze) or (zf) of section 4 of the **Crown Land (Reserves) Act 1978**.

**46. Power to enter land**

- (1) The Authority may, by instrument, authorise a person to enter land in the project area for the purposes of this section.
- (2) The Authority must issue an identity card to each person authorised under this section.
- (3) An identity card must contain a photograph of the person to whom it is issued.
- (4) A person authorised by the Authority under this section may enter land in the project area for the purpose of—
  - (a) carrying out surveys or investigations connected with the development of the project area; or
  - (b) doing on the Authority's behalf anything the Authority is authorised to do on that land in carrying out its functions or powers in relation to the project area.
- (5) The Authority must give 7 days notice in writing to the occupier of the land to be entered before entry occurs.
- (6) A notice under sub-section (5) must—
  - (a) contain the reasons for entering the land; and
  - (b) reproduce this section.
- (7) A person may enter land under this section earlier than the expiration of 7 days if the occupier consents to the entry.
- (8) The Authority need not give notice in writing under this section in an emergency.

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- (9) A person must not under this section enter land used primarily for residential purposes except between 7.30 a.m. and 6.00 p.m. unless the occupier consents to the entry.
- (10) In exercising a power under sub-section (4), a person must—
- (a) identify himself or herself by producing the identity card issued to that person under this section;
  - (b) cause as little harm and inconvenience as possible;
  - (c) not stay on the land for any longer than it is reasonably necessary;
  - (d) remove from the land anything brought on to the land by the person in the exercise of the power, other than anything that the owner or occupier of the land agrees may be left there;
  - (e) leave the land as nearly as possible in the condition in which he or she found it.

#### **Division 5—Disposing of and other dealings with land**

##### **47. Authority may surrender land to the Crown**

- (1) The Authority is an authority for the purposes of section 22A of the **Land Act 1958** in relation to land in the project area.
- (2) The powers to surrender land or to agree to the transfer or exchange of land conferred on the Authority by section 22A of the **Land Act 1958** as applied by this section are in addition to and do not derogate from any of the Authority's other functions or powers and any other provisions of this Part.



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#### 48. Disposing of land

The Authority may dispose of its interest in fee simple in any land in the project area on any terms (including consideration) that it considers appropriate.

#### 49. Agreements that run with the land

- (1) The Authority may enter into an agreement with—
  - (a) an owner of land in the project area; or
  - (b) any person in anticipation of that person becoming an owner of land in the project area—concerning the use or development of the land.
- (2) Division 2 of Part 9 of the **Planning and Environment Act 1987** applies to an agreement under sub-section (1) as if—
  - (a) it were an agreement under that Division;
  - (b) it referred to the Authority instead of the responsible authority for the planning scheme;
  - (c) section 174(2)(c) were omitted;
  - (d) sections 177(2), 178 and 179(1) referred to the Minister administering the **Victorian Urban Development Authority Act 2003** instead of the Minister.

Pt 3 Div. 5A  
(Headings  
and ss 50–  
51ZS)  
inserted by  
No. 35/2006  
s. 7.

New s. 50  
inserted by  
No. 35/2006  
s. 7.

## Division 5A—Charges

### Subdivision 1—Introductory

#### 50. Definitions

(1) In this Division—

**"Building Commission"** means the Building Commission established under Part 12 of the **Building Act 1993**;

**"building permit"** has the same meaning as in the **Building Act 1993**;

**"building work"** has the same meaning as in the **Building Act 1993**;

**"combined development"** means—

- (a) a subdivision of land (other than a subdivision that is exempt development under section 51A); and
- (b) building work on that land for which a building permit is required (other than building work that is exempt development under section 51A)—

where the subdivision and the construction of the buildings to which the building work relates are authorised by the same planning permit;

**"compliance request"** means a request to a municipal council for the issue of a statement of compliance under section 21 of the **Subdivision Act 1988**;

**"construction"** has the same meaning as in the **Building Act 1993**;

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**"cost of building work"** means the cost of building work on which the building permit levy is calculated under section 201 of the **Building Act 1993**;

**"date of development"** means—

- (a) in the case of a stand-alone subdivision, the date that the compliance request is made to a municipal council in relation to the plan of subdivision; and
- (b) in the case of stand-alone building work, the date of the application for the building permit to carry out the building work; and
- (c) in the case of a combined development, the date that is the same as both of, or the earlier of, the following dates—
  - (i) the date that the compliance request is made to a municipal council in relation to the plan of subdivision for the development;
  - (ii) the date of the application for a building permit to carry out the building work for the development;

**"development"** has the meaning set out in section 51;

**"development value"** has the meaning set out in section 51C;

**"dwelling"** has the same meaning as in section 46H of the **Planning and Environment Act 1987**;

**"general charge"** means a charge levied under section 51F;

**"general development charge"** means a general charge that is payable when a property is developed;

**"infrastructure recovery charge"** means a charge levied under section 51M;

**"nominated valuer"** means a valuer nominated by the valuer-general under section 51E;

**"planning permit"** means a permit within the meaning of the **Planning and Environment Act 1987**;

**"public investment"** means investment by—

- (a) the State; or
- (b) a public statutory body other than a municipal council; or
- (c) a municipal council under an arrangement with a public statutory body;

**"public land"** means—

- (a) Crown land; or
- (b) land owned by or vested in a public statutory body; or
- (c) land held on trust for a public or municipal purpose by trustees appointed under an Act;

**"qualified valuer"** means a person who holds the qualifications or experience specified from time to time under section 13DA(1A) of the **Valuation of Land Act 1960**;

**"site value"** has the same meaning as in the  
**Valuation of Land Act 1960**;

**"stand-alone building work"** means building  
work for which a building permit is required  
that—

- (a) is not part of a combined development;  
and
- (b) is not exempt development under  
section 51A;

**"stand-alone subdivision"** means a subdivision  
of land that—

- (a) is not part of a combined development;  
and
- (b) is not exempt development under  
section 51A;

**"valuer-general"** has the same meaning as in the  
**Valuation of Land Act 1960**.

- (2) In this Division a reference to a subdivision of  
land is, in the case of a staged subdivision (within  
the meaning of the **Subdivision Act 1988**), to be  
read as a reference to a stage of the subdivision.

#### **51. What is "development"?**

For the purposes of this Division **"development"**  
means—

- (a) a stand-alone subdivision; or
- (b) stand-alone building work; or
- (c) a combined development.

New s. 51  
inserted by  
No. 35/2006  
s. 7.

**s. 51A**

**S. 51A**  
inserted by  
No. 35/2006  
s. 7.

**51A. Which subdivisions and building work are exempt development?**

- (1) The following classes of subdivision of land are exempt development under this Division—
  - (a) except as provided in sub-section (3), a subdivision of land into not more than 2 lots;  
or
  - (b) a subdivision of land that involves an alteration to the boundaries of the lots on an existing plan of subdivision but does not increase the number of lots above the number of lots on that existing plan of subdivision; or
  - (c) a subdivision of an existing building into lots or lots and common property; or
  - (d) a subdivision of land where an existing building is situated on each lot to be created by the subdivision.
- (2) The following classes of building work are exempt development under this Division—
  - (a) the construction of up to 2 dwellings on a lot;
  - (b) the construction of the following buildings when they are ancillary to a dwelling—
    - (i) a garage, carport or shed or similar non-habitable building;
    - (ii) a fence, mast, antenna, retaining or free-standing wall, swimming pool, spa or similar structure;
  - (c) the carrying out of protection work within the meaning of the **Building Act 1993**;

- 
- (d) except as provided in sub-section (4), any other building work if the total cost of the building work does not exceed the threshold amount.
- (3) A subdivision of land is not exempted under sub-section (1)(a) if the land or any part of the land was the subject of a subdivision in the period of 3 years immediately preceding the date of development for the subdivision.
- (4) Building work is not exempted under sub-section (2)(d) if the cost of the building work together with the total cost of all other building work carried out on the same land in the period of 3 years immediately preceding the date of development for the building work exceeds the threshold amount.
- (5) A period of 3 years referred to in sub-section (3) or (4) does not include any period preceding the coming into effect of a resolution under Subdivision 2 or 3 in respect of the project area in which the land referred to in that sub-section is situated.
- (6) In this section—
- "existing building"** means a building where the date of practical completion of the building occurred before the coming into effect of a resolution under Subdivision 2 or 3 in respect of the project area in which the land on which the building is constructed is situated but does not include—
- (a) a garage, carport or shed or a similar building; or
  - (b) a fence, mast, antenna, retaining or free-standing wall, swimming pool, spa or similar structure;
-

**"threshold amount"** means the amount of  
\$250 000 as varied under section 51B.

S. 51B  
inserted by  
No. 35/2006  
s. 7.

**51B. Indexation of threshold amount**

- (1) The amount that is to apply for the purposes of section 51A is to be varied, in respect of the financial year beginning on 1 July 2007 and each subsequent financial year, in accordance with the formula—

$$A \times \frac{B}{C}$$

where—

"A" is the amount referred to in the definition of "threshold amount" in section 51A(6).

"B" is the all groups consumer price index for Melbourne as at 15 June in the preceding financial year last published by the Australian Statistician in respect of the December quarter of that financial year.

"C" is the all groups consumer price index for Melbourne as at 15 June in the year preceding the preceding financial year published by the Australian Statistician in respect of the December quarter preceding that 15 June.

- (2) If it is necessary for the purposes of this section to calculate an amount that consists of or includes a fraction of a whole number, the amount is deemed to have been calculated in accordance with this section if the calculation is made—
- (a) if the amount is less than \$1000, to the nearest whole \$1; or
  - (b) if the amount is \$1000 or more, to the nearest whole \$10.



- (3) If an amount is varied in accordance with this section, section 51A and this section have effect as if a reference to the amount were a reference to the amount as so varied.
- (4) If the variation of an amount to which this section applies by operation of this section has the effect of reducing the amount—
  - (a) the variation is deemed not to have taken effect, except for the purposes of the application of this sub-section; and
  - (b) when the amount is varied and increased by operation of this section in respect of the next or a subsequent financial year that variation has effect as an increase only to the extent (if any) to which the amount of the increase exceeds the amount of the reduction in respect of a preceding financial year, or that part of such a reduction that has not been set off against a previous increase.
- (5) The Minister must cause a notice to be published in the Government Gazette specifying the amount as varied for the purposes of section 51A in respect of the relevant financial year.

**51C. What is "development value"?**

S. 51C  
inserted by  
No. 35/2006  
s. 7.

- (1) In this Division "**development value**", in respect of a development that is a stand-alone subdivision or a combined development, means the amount that is the sum of the following amounts—
  - (a) the amount that is the estimated site value of the land that is to be subdivided; and
  - (b) subject to section 51D(3), the amount that is the estimated cost of building work calculated in accordance with section 51D(2).

**s. 51D**

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- (2) In this Division "**development value**" in respect of a development that is stand-alone building work means the total of the following amounts—
- (a) the site value of the land to be used for the development; and
  - (b) the amount that is the cost of building work for the development.
- (3) Despite sub-section (1), if an infrastructure recovery charge has previously been paid under this Division in respect of stand-alone building work on land, "**development value**" for the purposes of this Division for a subsequent development of that land that is a stand-alone subdivision is to be the amount that is the difference between the following amounts—
- (a) the site value of the land that is to be subdivided; and
  - (b) the amount that is the estimated site value of the land that is to be subdivided.
- (4) Despite sub-section (2), if a general development charge or an infrastructure recovery charge has previously been paid under this Division in respect of land, "**development value**" for the purposes of this Division for a subsequent development of that land that is stand-alone building work is to be the amount that is the cost of the building work for the development.

S. 51D  
inserted by  
No. 35/2006  
s. 7.

**51D. How is development value assessed?**

- (1) For the purposes of section 51C(1)(a) or 51C(3)(b), the estimate of the site value of land to be subdivided is to be based on current market values as at the date of development as if the subdivision of the land had already occurred at that date.

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- (2) For the purposes of section 51C(1)(b), the estimate of the cost of building work on the land is to be based on the estimated cost, as at the date of development, of—
- (a) in the case of a stand-alone subdivision, the average buildings that could reasonably be expected to be constructed on that land to give effect to the purpose of the subdivision; and
  - (b) in the case of a combined development, the construction of the buildings authorised by the planning permit for the development.
- (3) If, in the case of a combined development, the cost of building work for the development has been notified to the Authority under section 18A of the **Building Act 1993** before the assessment of development value is made for the purposes of section 51X, development value for the purposes of section 51C(1)(b) is to be based on the cost of building work instead of the estimated cost of building work.
- (4) Subject to sub-section (5), the site value of land for the purposes of section 51C(2)(a) or 51C(3)(a) is the most recent site value of the land determined under the **Valuation of Land Act 1960** for the purposes of the **Local Government Act 1989** as at the date of development.
- (5) If land to be used for the development forms part of one or more parcels of land to which section 13DC(6) or 13DC(7) of the **Valuation of Land Act 1960** applies and not all the land in those parcels is to be used for the development, then for the purposes of section 51C(2)(a) or 51C(3)(a), the site value of the land to be used for the development is to be the estimated site value of the land as at the date of development, based on the most recent site value of all the land in the
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**s. 51E**

parcels determined under the **Valuation of Land Act 1960** for the purposes of the **Local Government Act 1989**.

S. 51E  
inserted by  
No. 35/2006  
s. 7.

**51E. Nominated valuer to make assessments**

- (1) The Authority may ask the valuer-general to nominate a qualified valuer to make an assessment of development value for the purposes of this Division.
- (2) The valuer-general must comply with a request under sub-section (1).
- (3) The valuer-general may determine reasonable fees for the making of an assessment by a nominated valuer under this Division.
- (4) The Authority must pay the fees for an assessment made by a nominated valuer under this Division.
- (5) Section 3A of the **Valuation of Land Act 1960** applies to a nominated valuer making an assessment under this Division as if—
  - (a) the valuer were appointed under that Act; and
  - (b) the making of an assessment of development value under this Division were the making of a valuation under that Act.

**Subdivision 2—General Charges**

S. 51F  
inserted by  
No. 35/2006  
s. 7.

**51F. General charges**

- (1) With the prior approval of the Governor in Council, the Authority may, by resolution, levy charges on the owners, occupiers or licensees of properties in the project area—
  - (a) for the supply of telecommunications or other services provided by or by agreement with the Authority; or

- (b) for the promotion of the project area by the Authority; or
  - (c) for the maintenance or management by or by agreement with the Authority of areas or facilities for common use by groups of properties or uses in the project area; or
  - (d) for the provision by or by agreement with the Authority of the infrastructure necessary for development of the project area or any part of it.
- (2) An approval under sub-section (1) may only be given on the recommendation of the Minister made with the approval of the Treasurer.

**51G. How is a general charge determined?**

**S. 51G**  
inserted by  
No. 35/2006  
s. 7.

- (1) General charges—
- (a) may be different for different classes of properties;
  - (b) may vary according to—
    - (i) the value or size of land;
    - (ii) the distance of a property from the service or facility or a group of services or facilities;
    - (iii) the nature or extent of use of the service or facility;
  - (c) may include minimum charges or a scale of charges;
  - (d) need not relate directly to the cost of services or facilities provided;
  - (e) may be concessional charges.

**s. 51H**

- (2) A general charge on a property that is levied on the owner of the property may be expressed to apply only when the property is developed.

Note: A general charge that applies only when a property is developed is called a general development charge in this Division.

**S. 51H**  
inserted by  
**No. 35/2006**  
**s. 7.**

**51H. What must a resolution levying a general charge state?**

- (1) A resolution levying a general charge (other than a general development charge) must state the following—
- (a) what the charge is for;
  - (b) how long the charge has effect for;
  - (c) how the charge is calculated;
  - (d) when the charge is due and payable;
  - (e) on what properties the charge is levied;
  - (f) who must pay the charge.
- (2) A resolution levying a general development charge must state the following—
- (a) what the charge is for;
  - (b) how long the charge has effect for;
  - (c) how the charge is calculated;
  - (d) on what properties the charge is levied;
  - (e) that the charge is due and payable by the owner of a property before a statement of compliance is issued under section 21 of the **Subdivision Act 1988** in respect of the development of the property or a building permit is issued in respect of the development of the property (as the case requires).

**51I. Notice of general charge**

**S. 51I  
inserted by  
No. 35/2006  
s. 7.**

- (1) The Authority must cause a resolution levying a general charge to be published—
  - (a) in the Government Gazette; and
  - (b) in a newspaper circulating generally in the project area subject to the charge; and
  - (c) in a newspaper circulating generally throughout Victoria.
- (2) A resolution levying a general charge has no effect until it is published in the Government Gazette.
- (3) In addition to the notice required under sub-section (1), the Authority must give notice of a resolution levying a general development charge to—
  - (a) the Building Commission; and
  - (b) each municipal council in the municipal district of which the project area is situated.
- (4) A notice under sub-section (3) must specify—
  - (a) the project area to which the resolution relates; and
  - (b) the period during which the resolution will have effect.

**51J. Variation or revocation of resolution levying general charge**

**S. 51J  
inserted by  
No. 35/2006  
s. 7.**

- (1) The Authority may by resolution vary or revoke any resolution made under this Subdivision.
- (2) The procedure for varying or revoking a resolution under this Subdivision is the same as the procedure for making the resolution.

**s. 51K**

**S. 51K**  
inserted by  
No. 35/2006  
s. 7.

**51K. General development charge not to apply to existing development**

A general development charge is not payable in respect of a development if a planning permit or building permit was issued for the development before the publication of the resolution levying the charge.

**S. 51L**  
inserted by  
No. 35/2006  
s. 7.

**51L. General charges on non-rateable land**

For land that is not rateable under section 154 of the **Local Government Act 1989** a charge may only be levied under section 51F(1)(a)—

- (a) in respect of the use of works or services;  
and
- (b) on the user of those works or services.

**Subdivision 3—Infrastructure Recovery Charges**

**S. 51M**  
inserted by  
No. 35/2006  
s. 7.

**51M. Infrastructure recovery charge**

- (1) With the prior approval of the Governor in Council, the Authority may, by resolution, levy charges on owners of properties in the project area.
- (2) An approval under sub-section (1) may only be given on the recommendation of the Minister made with the approval of the Treasurer.
- (3) Before making a recommendation under sub-section (2), the Minister must be satisfied that the total amount estimated to be received from the charges levied under the resolution on owners of properties in the project area will not exceed the estimated amount (determined by the Minister) of public investment incurred or to be incurred in the project area for the declared project on or after the date of the declaration of the project under section 34.



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**51N. Infrastructure recovery charge to be based on development value**

S. 51N  
inserted by  
No. 35/2006  
s. 7.

- (1) An infrastructure recovery charge is to be based on a percentage of the development value of a development of a property.
- (2) The resolution levying the charge must fix the percentage of development value to be used to calculate the charge.
- (3) The resolution may—
  - (a) fix different percentages of development value in respect of different classes of development;
  - (b) vary the percentage of development value according to the distance of a property from a service or facility or a group of services or facilities;
  - (c) include a scale of percentages of development value that increases from year to year.

**51O. Cap on infrastructure recovery charge**

S. 51O  
inserted by  
No. 35/2006  
s. 7.

A percentage of development value specified in a resolution levying an infrastructure recovery charge must not exceed 10%.

**51P. What must a resolution levying an infrastructure recovery charge state?**

S. 51P  
inserted by  
No. 35/2006  
s. 7.

- (1) A resolution levying an infrastructure recovery charge must state the following—
  - (a) the period during which the charge will apply in relation to properties in the project area;
  - (b) the percentage or percentages or scale of percentages of development value to be used to calculate the charge;

**s. 51Q**

- (c) the estimated amount of public investment incurred or to be incurred in developing the project area as determined by the Minister under section 51M(3).
- (2) The resolution must state that the charge is due and payable before a statement of compliance is issued under section 21 of the **Subdivision Act 1988** in respect of the development or a building permit is issued in respect of the development (as the case requires).

S. 51Q  
inserted by  
No. 35/2006  
s. 7.

**51Q. Notice of infrastructure recovery charge**

- (1) The Authority must cause a resolution levying an infrastructure recovery charge to be published—
  - (a) in the Government Gazette; and
  - (b) in a newspaper circulating generally in the project area subject to the charge; and
  - (c) in a newspaper circulating generally throughout Victoria.
- (2) A resolution levying an infrastructure recovery charge has no effect until it is published in the Government Gazette.
- (3) The Authority must give notice of a resolution levying an infrastructure recovery charge to—
  - (a) the Building Commission; and
  - (b) each municipal council in the municipal district of which the project area is situated.
- (4) A notice under sub-section (3) must specify—
  - (a) the project area to which the resolution relates; and
  - (b) the period during which the resolution will have effect.

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**51R. Variation or revocation of resolution levying infrastructure recovery charge**

**S. 51R  
inserted by  
No. 35/2006  
s. 7.**

- (1) The Authority may by resolution vary or revoke any resolution made under this Subdivision.
- (2) The procedure for varying or revoking a resolution under sub-section (1) is the same as the procedure for making the resolution.
- (3) The Minister, with the approval of the Treasurer, may, by order published in the Government Gazette, revoke a resolution made under this Subdivision at any time.
- (4) Without limiting sub-section (3), an order under that sub-section may revoke a resolution made under this Subdivision if the Minister is satisfied that the estimated amount (determined by the Minister under section 51M(3)) of public investment incurred or to be incurred in the project area subject to the resolution has been recovered under the resolution.
- (5) An order revoking a resolution under sub-section (3) comes into effect on the day that it is published in the Government Gazette or any later date specified in the order.

**51S. Infrastructure recovery charge not to apply to existing development**

**S. 51S  
inserted by  
No. 35/2006  
s. 7.**

An infrastructure recovery charge is not payable in respect of a development if a planning permit or building permit was issued for the development before the publication of the resolution levying the charge.

**s. 51T**

**S. 51T**  
inserted by  
No. 35/2006  
s. 7.

**51T. Infrastructure recovery charge not payable if earlier charge paid**

- (1) An infrastructure recovery charge is not payable in respect of a development that is stand-alone building work if the development—
  - (a) is of a lot created by a subdivision of land in respect of which an infrastructure recovery charge has been paid; and
  - (b) is to give effect to the purpose of the subdivision as set out in the planning permit for the subdivision.
- (2) An infrastructure recovery charge is not payable in respect of a development that is a stand-alone subdivision of land if an infrastructure recovery charge has been paid for stand-alone building work on that land more than 5 years before the date of development for the subdivision and no other subdivision of that land has been registered in that period.

**S. 51U**  
inserted by  
No. 35/2006  
s. 7.

**51U. Infrastructure recovery charge not payable in respect of public land**

A property is not subject to an infrastructure recovery charge if the property is public land and the development is carried out by or on behalf of the Crown, a public statutory body or the trustees of the trust for the land.

**Subdivision 4—Recovery of Charges**

**S. 51V**  
inserted by  
No. 35/2006  
s. 7.

**51V. Statement of general charge (other than general development charge)**

- (1) The Authority must send a statement of charge to any person that the Authority has determined is liable to pay a general charge (other than a general development charge).

- 
- (2) A statement of charge under this section must—
- (a) be in writing; and
  - (b) set out the charge that is payable and the method used to calculate that charge; and
  - (c) set out the due date for payment of the charge; and
  - (d) include any other information required by the resolution levying the charge.

**51W. Statement of general development charge**

S. 51W  
inserted by  
No. 35/2006  
s. 7.

- (1) The Authority must send a statement of charge to any person that the Authority has determined is liable to pay a general development charge—
- (a) in the case of a stand-alone subdivision, within 28 days after the Authority receives the notice under section 21(2A) of the **Subdivision Act 1988** of the receipt of the compliance request for the plan of subdivision; and
  - (b) in the case of stand-alone building work, within 28 days after the Authority receives—
    - (i) the notice under section 18A of the **Building Act 1993** of an application for a building permit for the development; or
    - (ii) the notice under section 32A of the **Building Act 1993** of the issue of a building permit for the development—whichever is the earlier; and

- (c) in the case of a combined development, within 28 days after the Authority receives—
  - (i) the notice under section 21(2A) of the **Subdivision Act 1988** of the receipt of the compliance request for the plan of subdivision; or
  - (ii) the notice under section 18A of the **Building Act 1993** of an application for a building permit for the development; or
  - (iii) the notice under section 32A of the **Building Act 1993** of the issue of a building permit for the development—whichever is the earliest.
- (2) A statement of charge under this section must—
  - (a) be in writing; and
  - (b) set out the charge that is payable and the method used to calculate that charge; and
  - (c) set out the procedure for payment of the charge; and
  - (d) include any other information required by the resolution levying the charge.

S. 51X  
inserted by  
No. 35/2006  
s. 7.

#### **51X. Statement of infrastructure recovery charge**

- (1) The Authority must send a statement of charge to any person that the Authority has determined is liable to pay an infrastructure recovery charge—
  - (a) in the case of a stand-alone subdivision, within 28 days after the Authority receives the notice under section 21(2A) of the **Subdivision Act 1988** of the receipt of the compliance request for the plan of subdivision; and

- 
- (b) in the case of stand-alone building work,  
within 28 days after the Authority receives—
- (i) the notice under section 18A of the **Building Act 1993** of an application for a building permit for the development; or
  - (ii) the notice under section 32A of the **Building Act 1993** of the issue of a building permit for the development—
- whichever is the earlier; and
- (c) in the case of a combined development,  
within 28 days after the Authority receives—
- (i) the notice under section 21(2A) of the **Subdivision Act 1988** of the receipt of the compliance request for the plan of subdivision; or
  - (ii) the notice under section 18A of the **Building Act 1993** of an application for a building permit for the development; or
  - (iii) the notice under section 32A of the **Building Act 1993** of the issue of a building permit for the development—
- whichever is the earliest.
- (2) A statement of charge under this section must—
- (a) be in writing; and
  - (b) set out the charge that is payable; and
  - (c) set out the procedure for payment of the charge; and
  - (d) include any other information required by the resolution levying the charge.
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**s. 51Y**

- (3) A statement of charge under this section relating to a stand-alone subdivision or a combined development must be accompanied by—
- (a) a copy of the assessment of development value made by the nominated valuer for the purpose of calculating the charge; and
  - (b) a copy of any other document or information used in calculating the charge.

S. 51Y  
inserted by  
No. 35/2006  
s. 7.

**51Y. Authority may enter agreements for payment of charges under this Division**

- (1) The Authority may enter into an agreement with a person liable to pay a general charge or an infrastructure recovery charge for the payment of that charge.
- (2) An agreement under this section must provide that the charge is to be paid to the Authority within a specified period of time and may provide for payment by instalments.

S. 51Z  
inserted by  
No. 35/2006  
s. 7.

**51Z. Waiver of charges**

The Authority, with the approval of the Minister and the Treasurer, may waive a general charge or an infrastructure recovery charge on a property in whole or in part.

S. 51ZA  
inserted by  
No. 35/2006  
s. 7.

**51ZA. Authority must give notice of charge to council or building surveyor**

- (1) The Authority must give a notice under this section to—
  - (a) a municipal council from which it has received a notice under section 21(2A) of the **Subdivision Act 1988** in respect of a subdivision of land; or



- (b) a building surveyor from whom it has received a notice under section 18A of the **Building Act 1993** in respect of an application for a building permit to carry out building work.
- (2) The notice must be in writing and must state—
  - (a) whether a general development charge or an infrastructure recovery charge is payable in respect of the subdivision of land or the building work (as the case may be); and
  - (b) if applicable, whether the charge has been paid or the person liable to pay the charge has entered into an agreement with the Authority under section 51Y for payment of the charge.

**51ZB. Removal of liability for other charges**

A person liable under this Division to pay a charge in respect of a property and who would otherwise be liable under another Act to pay a charge in respect of the same property for the same matter is not liable to pay that other charge, despite anything to the contrary in any Act or law.

S. 51ZB  
inserted by  
No. 35/2006  
s. 7.

**51ZC. Authority may charge interest on unpaid charges**

- (1) Interest is payable at the rate fixed each year by the Authority on any unpaid charge that is due and payable under this Division.
- (2) The annual rate of interest fixed by the Authority for the purposes of sub-section (1) must not be greater than the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983**.
- (3) The Authority must publish the annual interest rate in the Government Gazette.

S. 51ZC  
inserted by  
No. 35/2006  
s. 7.

**s. 51ZD**

S. 51ZD  
inserted by  
No. 35/2006  
s. 7.

**51ZD. Unpaid charges may be recovered as a debt**

- (1) The Authority may recover any unpaid charge that is due and payable under this Division and any unpaid interest on that charge as a debt in any court of competent jurisdiction.
- (2) Any unpaid charge that is due and payable under this Division, any unpaid interest on that charge and any costs awarded to the Authority in any court proceedings in relation to that charge or interest are a first charge on the land.

S. 51ZE  
inserted by  
No. 35/2006  
s. 7.

**51ZE. Charges to be paid into Project Fund**

The Authority must pay all money received by it under this Division into the Project Fund.

S. 51ZF  
inserted by  
No. 35/2006  
s. 7.

**51ZF. Refund of certain charges by Authority**

- (1) The Authority must refund out of the Project Fund any amount paid to it in respect of a general development charge or infrastructure recovery charge relating to a development that is stand-alone building work if it is satisfied that the building permit for the development has lapsed without the development proceeding.
- (2) The Authority may refund out of the Project Fund any amount paid to it in respect of a general development charge or infrastructure recovery charge relating to any other development if it is satisfied that the development in respect of which that charge was levied is not to proceed.

**Subdivision 5—Objections**

S. 51ZG  
inserted by  
No. 35/2006  
s. 7.

**51ZG. Making an objection to a general charge**

A person who is aggrieved by the levying of a general charge may, within 28 days after receiving a statement of charge under section 51V or 51W, object in writing to the Authority on any one or both of the grounds set out in section 51ZI(1).

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**51ZH. Making an objection to an infrastructure recovery charge**

S. 51ZH  
inserted by  
No. 35/2006  
s. 7.

A person who is aggrieved by the levying of an infrastructure recovery charge may, within 28 days after receiving a statement of charge under section 51X, object in writing to the Authority on any one or more of the grounds set out in section 51ZI.

**51ZI. Grounds for objection**

S. 51ZI  
inserted by  
No. 35/2006  
s. 7.

- (1) The grounds for an objection are—
  - (a) that the objector is not liable for the charge;
  - (b) that there is a technical error in the calculation of the charge.
- (2) The following additional grounds of objection apply to an infrastructure recovery charge—
  - (a) that an assessment of development value by the nominated valuer used in the calculation of the charge is too high or too low;
  - (b) that an assessment of development value by the nominated valuer used in the calculation of the charge is based on an incorrect description of any land valued in that assessment;
  - (c) that an assessment of development value by the nominated valuer used in the calculation of the charge is based on an incorrect apportioning of the value of a parcel of land in respect of which the charge is levied that had previously been valued together with other parcels of land under section 13DC(6) or 13DC(7) of the **Valuation of Land Act 1960**.

**s. 51ZJ**

**S. 51ZJ**  
inserted by  
No. 35/2006  
s. 7.

**51ZJ. What must an objection contain?**

- (1) An objection must—
  - (a) state the ground or grounds on which the objection is based; and
  - (b) give particulars of—
    - (i) any alleged error in the calculation of the charge; or
    - (ii) the bases of any assessment of development value made by the nominated valuer to which the objection is made.
- (2) An objection on a ground set out in section 51ZI(2) must be accompanied by an assessment of the development value of the development made by a qualified valuer at the objector's expense.

**S. 51ZK**  
inserted by  
No. 35/2006  
s. 7.

**51ZK. Determination of objection not involving assessment of development value**

If the Authority receives an objection based on a ground set out in section 51ZI(1), the Authority must determine the objection and notify the objector in writing of the Authority's determination within 28 days after receiving the objection.

**S. 51ZL**  
inserted by  
No. 35/2006  
s. 7.

**51ZL. Determination of objection involving disputed assessment of development value**

- (1) If the Authority receives an objection based on a ground set out in section 51ZI(2), the Authority must determine to accept or reject the assessment of development value provided by the objector within 21 days after receiving the objection.

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- (2) If the Authority determines to accept the objector's assessment, the Authority must within 7 days after making that determination—
    - (a) make any necessary adjustment to the charge; and
    - (b) notify the objector of its determination and of any adjustment made to the charge.
  - (3) If the Authority determines not to accept the objector's assessment, it must within 7 days after making that determination—
    - (a) refer the objection to the valuer-general for dispute resolution; and
    - (b) notify the objector in writing of its determination and that the objection has been so referred.

**51ZM. Dispute resolution procedure**

**S. 51ZM  
inserted by  
No. 35/2006  
s. 7.**

- (1) The valuer-general must convene a dispute resolution conference within 2 months after the objection is referred to the valuer-general under section 51ZL.
- (2) The parties to the dispute resolution conference are the nominated valuer who made the assessment and the valuer who prepared the objector's assessment.
- (3) The valuer-general or a person nominated by the valuer-general is to facilitate the dispute resolution conference.
- (4) At a dispute resolution conference the parties may agree on the correct assessment of development value to be used as the basis for determining the charge.
- (5) The valuer-general must notify the Authority of the outcome of the dispute resolution conference.

**s. 51ZN**

**S. 51ZN**  
inserted by  
No. 35/2006  
s. 7.

**51ZN. Determination of Authority after dispute resolution conference**

- (1) If the valuer-general notifies the Authority that the parties to the dispute resolution conference have agreed on the correct assessment of development value, the Authority, within 7 days after receiving that notice, must—
  - (a) accept the assessment; and
  - (b) make any necessary adjustment to the charge; and
  - (c) notify the objector in writing of the Authority's determination to accept the assessment and of any adjustment made to the charge.
- (2) If the valuer-general notifies the Authority that the parties to the dispute resolution conference have not agreed on the correct assessment of development value, the Authority, within 7 days after receiving that notice, must—
  - (a) disallow the objection on the ground of the assessment of development value; and
  - (b) notify the objector in writing of the Authority's determination to disallow the objection on that ground.

**Subdivision 6—Reviews and Appeals**

**S. 51ZO**  
inserted by  
No. 35/2006  
s. 7.

**51ZO. Application to VCAT for review**

- (1) An objector who is dissatisfied with a determination of the Authority under section 51ZK, or 51ZN on an objection may apply to VCAT for review of that determination.

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- (2) An application under sub-section (1) must be made within 28 days after the objector is notified of the determination under Subdivision 5.
  - (3) An objector may apply to VCAT for a review of the amount of a general charge or an infrastructure recovery charge set out in a statement sent to the objector under section 51V, 51W or 51X if—
    - (a) the Authority fails to notify the objector of its determination in relation to the objection within the time required by section 51ZK, 51ZL or 51ZN (as the case requires); or
    - (b) the valuer-general fails to convene a dispute resolution conference within the time required by section 51ZM.
  - (4) An application under sub-section (3) must be made within 28 days after the expiry of the relevant required time referred to in that sub-section.
  - (5) An applicant under this section must serve a copy of the application on the Authority.
  - (6) The Authority must, within 28 days after being served with a copy of the application, forward to the principal registrar of VCAT—
    - (a) the notice of objection; and
    - (b) copies of any written notifications given under Subdivision 5 in connection with the objection.
  - (7) The principal registrar of VCAT must notify the valuer-general of an application under this section that relates to an objection on a ground referred to in section 51ZI(2).
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S. 51ZP  
inserted by  
No. 35/2006  
s. 7.

### 51ZP. Appeal to Supreme Court

- (1) If the application relates to a ground of objection referred to in section 51ZI(2), the President of VCAT, on his or her own initiative or on the application of a party, may refer a matter that is the subject of an application under section 51ZO to the Supreme Court to be treated as an appeal to the Supreme Court if the President is satisfied that the matter raises questions of unusual difficulty or of general importance.
- (2) The principal registrar of VCAT must notify the valuer-general of a referral to the Supreme Court under sub-section (1).
- (3) In addition to sub-section (1), a matter that is or could be the subject of an application under section 51ZO may be treated as an appeal to the Supreme Court if, on the application of any party, the Court is satisfied that the matter raises questions of unusual difficulty or of general importance.
- (4) For the purposes of sub-section (3), a **"party"** includes a person who would be a party if the matter were the subject of an application under section 51ZO.
- (5) The prothonotary must notify the valuer-general of an application to the Supreme Court under sub-section (3).
- (6) Nothing in this section limits the application of section 77 of the **Victorian Civil and Administrative Tribunal Act 1998**.

Note: Section 77 of the **Victorian Civil and Administrative Tribunal Act 1998** permits VCAT to refer a matter to a more appropriate forum.



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**51ZQ. Grounds of review or appeal**

**S. 51ZQ  
inserted by  
No. 35/2006  
s. 7.**

- (1) On a review or appeal the objector's case is limited to—
  - (a) the ground or grounds of the objection made under section 51ZG or 51ZH; and
  - (b) any other ground set out in section 51ZI allowed by order of VCAT or the Supreme Court (as the case requires).
- (2) If a ground for the objection is that an assessment of development value is incorrect on a ground referred to in section 51ZI(2), the application for review or appeal (as the case requires) must state the amount that the objector contends is the correct amount of the assessment.

**51ZR. Powers on review or appeal**

**S. 51ZR  
inserted by  
No. 35/2006  
s. 7.**

- (1) On a review or appeal, VCAT or the Supreme Court (as the case requires) may—
  - (a) by order, confirm the person liable to pay the general charge or infrastructure recovery charge; and
  - (b) by order, confirm, increase, reduce or otherwise amend any assessment of development value that was used in calculating the infrastructure recovery charge; and
  - (c) by order, confirm, increase, reduce or otherwise amend the general charge or infrastructure recovery charge; and
  - (d) make any other order it thinks fit.

- (2) An appeal to the Court of Appeal from an order of the Supreme Court under this section lies only on a question of law.

Note: Section 148 of the **Victorian Civil and Administrative Tribunal Act 1998** provides for appeals on a question of law from orders of VCAT.

S. 51ZS  
inserted by  
No. 35/2006  
s. 7.

### 51ZS. Costs

- (1) On a review or appeal, VCAT or the Supreme Court (as the case requires) may make an order as to the payment of costs, or no order as to the payment of costs, as it thinks appropriate.
- (2) In determining any questions concerning costs, VCAT or the Supreme Court may take into consideration the following factors, as appropriate—
- (a) the extent of any adjustment to the assessment made by VCAT or the Court;
  - (b) any unreasonable conduct on the part of any party—
    - (i) during the objection process; or
    - (ii) during the review or appeal;
  - (c) the failure of a party to give adequate information or supply supporting material when permitted or required to do so.
- (3) The Supreme Court may make an order with respect to the assessment of costs in the same manner as it may in respect of any other matter before the Court.

Note: Section 111 of the **Victorian Civil and Administrative Tribunal Act 1998** provides for the assessment of costs in VCAT proceedings.

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**Division 6—Other powers**

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Ss 50, 51  
repealed by  
No. 35/2006  
s. 6.

**52. Exemption from duty, rates, taxes or charges**

- (1) Despite anything to the contrary in any Act or law, the Treasurer, on the Minister's recommendation, may by instrument totally or partially exempt the whole or a specified part of the project area from any duty, rate, tax or charge levied under this or any other Act in respect of land.
- (2) An exemption must state the time for which it operates and may be subject to any conditions specified in the instrument of exemption.
- (3) The Minister must cause notice of an exemption to be published in the Government Gazette.
- (4) The Minister must obtain the written consent of the person or body responsible for levying a duty, rate, tax or charge (other than one payable into the Consolidated Fund) before making a recommendation under sub-section (1) in relation to that duty, rate, tax or charge.

**53. Transport facilities**

- (1) Within the project area the Authority may do all or any of the following—
  - (a) construct, extend, realign, relocate, open, operate, close or remove roads, railways, transport facilities and tunnels;
  - (b) carry out separate works or facilities associated with any of the things mentioned in paragraph (a).

S. 53(2)(b)  
amended by  
No. 95/2005  
s. 12(4).

- (2) Before the Authority does anything under sub-section (1) to a road, railway, transport facility or tunnel vested in or under the control of—
- (a) the Roads Corporation; or
  - (b) the Southern Cross Station Authority established under the **Rail Corporations Act 1996**; or
  - (c) Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996**; or
  - (d) a metropolitan train operator or metropolitan tram operator within the meaning of the **Rail Corporations Act 1996**—

the Authority must get the approval of that Corporation, Authority or other body.

S. 53(3)  
amended by  
No. 95/2005  
s. 12(4).

- (3) Without limiting sub-section (2), if under that sub-section the Authority is required to get the approval of Victorian Rail Track or the Southern Cross Station Authority before doing anything under sub-section (1), the Authority must also get the approval of the Director of Public Transport appointed under the **Transport Act 1983** before doing that thing.
- (4) The Governor in Council may by Order published in the Government Gazette provide for any vesting or divesting of lands necessary because of the exercise by the Authority of its powers under sub-section (1).
- (5) An Order under sub-section (4) may only be made on the joint recommendation of the Minister and—
- (a) any other Minister administering an Act affected by the Order; or
  - (b) any other Minister responsible for a body whose land is affected by the Order.

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#### 54. Closing roads

- (1) A decision under this Part to close, realign or relocate a road has no effect until the Authority causes notice of it to be published in the Government Gazette and in a newspaper circulating generally throughout Victoria.
- (2) On the publication under sub-section (1) of a decision to close, realign or relocate a road—
  - (a) the land over which the closed, realigned or relocated road ran ceases to be a road; and
  - (b) all rights, easements and privileges existing or claimed either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
  - (c) that land is deemed to be unalienated land of the Crown.
- (3) The Authority may temporarily close a road in the project area to traffic if it considers it necessary to do so so that works on the road or neighbouring land can be carried out.

#### 55. Administration of Building Act 1993

- (1) Despite anything to the contrary in the **Building Act 1993**, the Minister may by Order declare that the administration and enforcement in relation to all or part of the project area of any of the provisions of that Act and the regulations made under that Act is to be carried out—
  - (a) by a person specified by the Minister; and
  - (b) in accordance with the directions of the Minister.

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- (2) An Order under sub-section (1) must be published in the Government Gazette.
  - (3) The **Building Act 1993** and the regulations made under that Act apply for the purposes of this section as if any reference to a council, municipal building surveyor or relevant building surveyor were a reference to the person specified in the Order under this section.
  - (4) If, because of an Order under this section, a person (in this sub-section called "the old person") ceases to have the functions of a council, municipal building surveyor or relevant building surveyor under the **Building Act 1993** or the regulations made under that Act for the purposes of this section and another person (in this sub-section called "the new person") specified in that Order acquires those functions—
    - (a) anything of a continuing nature done or commenced by or in relation to the old person in relation to those functions may be done, or completed by or in relation to the new person; and
    - (b) the old person must give to the new person any document held by the old person that is relevant to anything done by the old person in relation to those functions; and
    - (c) anything done by or in relation to the old person in relation to those functions that concerns a matter of a continuing nature has effect as if done by or in relation to the new person.
  - (5) In this section "**function**" includes power, discretion, authority and duty.
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**56. Negotiation bonds**

- (1) The Authority, with the approval of the Minister, may, in writing, request any person to lodge a negotiation bond with the Authority if the person has expressed an interest—
  - (a) in the development of any precinct or any part of a precinct of the project area; or
  - (b) in the provision of an item or combination of items of trunk infrastructure in the project area.
- (2) A negotiation bond must not exceed \$200 000 or, if another amount is prescribed, that amount, for each precinct or for each item or combination of items of trunk infrastructure in respect of which the person has expressed an interest.
- (3) The request may provide that the negotiation bond—
  - (a) must be in the form of a cash deposit; and
  - (b) is to be lodged subject to the conditions specified by the Authority in the request, including conditions relating to the circumstances in which the bond may be forfeited.
- (4) If a person does not lodge a negotiation bond with the Authority in accordance with a request under this section within 7 days after the request is made, the Authority may refuse to enter into any arrangement or agreement under this Act with that person in relation to—
  - (a) the development of the precinct or the provision of trunk infrastructure; or
  - (b) any lease, licence or disposal of land in the precinct or relating to the provision of trunk infrastructure; or

- (c) the use or development of land in the precinct or relating to the provision of trunk infrastructure.

(5) In this section—

**"precinct"** means any part of the project area which the Authority by notice published in the Government Gazette determines to be a precinct of the project area;

**"infrastructure"** includes—

- (a) roads and traffic works;
- (b) sewerage, storm water drainage, water supply, electricity, gas, telecommunications and other like services;
- (c) works to improve water edges and water quality;
- (d) wharves, marinas and boat launching and berthing facilities;
- (e) light rail, tram and other public transport works;
- (f) public parks and public spaces and related works;
- (g) art works;
- (h) education facilities and community facilities, including kindergartens, libraries, community centres, health facilities and emergency service facilities;

**"trunk infrastructure"** means any item of infrastructure that provides benefits or services to more than one precinct.



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**PART 4—CORPORATE PLAN**

**57. Corporate Plan**

- (1) The board must prepare a corporate plan for each financial year.
- (2) The board must give a copy of the proposed plan to the Minister and the Treasurer on or before 31 May in each year.
- (3) The proposed corporate plan must be in or to the effect of a form approved by the Minister and the Treasurer and must include—
  - (a) a statement of corporate intent in accordance with section 58;
  - (b) a business plan containing such information as the Minister or the Treasurer requires;
  - (c) financial statements containing such information as the Treasurer requires.
- (4) The board must consider any comments on the proposed plan that are made to it by the Minister or the Treasurer within 2 months after the plan was submitted to the Minister and the Treasurer.
- (5) The board must consult in good faith with the Minister and the Treasurer following communication to it of the comments, must make such changes to the plan as are agreed between the Minister, the Treasurer and the board and must deliver the completed plan to the Minister and the Treasurer within 2 months after the commencement of the financial year.
- (6) The plan, or any part of the plan, must not be published or made available except for the purposes of this Part without the prior approval of the Minister and the Treasurer.

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- (7) The plan may be modified at any time by the board with the agreement of the Minister and the Treasurer.
  - (8) If the board, by written notice to the Minister and the Treasurer, proposes a modification of the plan, the board may, within 14 days, make the modification unless the Minister or the Treasurer, by written notice to the board, directs the board not to make it.
  - (9) The Treasurer, after consultation with the Minister, may, from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent, a business plan or a financial statement of a specified kind, any specified matters.
  - (10) Before giving a direction under this section, the Treasurer must consult with the board as to the matters to be referred to in the notice.
  - (11) The board must comply with a direction under this section.
  - (12) At any particular time, the statement of corporate intent, the business plan or the financial statements for the Authority are the statements and plan last completed, with any modifications or deletions made in accordance with this Part.

**58. Statement of corporate intent—contents**

Each statement of corporate intent must specify for the Authority and its subsidiaries (if any), in respect of the financial year to which it relates and each of the 2 following financial years, the following information—

- (a) the business objectives of the Authority and of its subsidiaries;
- (b) the main undertakings of the Authority and of its subsidiaries;

- (c) the nature and scope of the activities to be undertaken by the Authority and its subsidiaries;
- (d) the accounting policies to be applied in the accounts;
- (e) the performance targets and other measures by which the performance of the Authority and of its subsidiaries may be judged in relation to their stated business objectives;
- (f) the kind of information to be provided to the Minister and the Treasurer by the Authority during the course of those financial years;
- (g) such other matters as may be agreed on by the Minister, the Treasurer and the board from time to time.

**59. Corporate plan to be followed**

The Authority must act only in accordance with its corporate plan, as existing from time to time, unless it has first obtained the written approval of the Minister and the Treasurer to do otherwise.

**60. Nothing void merely because of non-compliance**

Nothing done by the Authority is void or unenforceable merely because the Authority has failed to comply with section 57, 58 or 59.

**61. Board to give notice of significant events**

If the board forms the opinion that matters have arisen—

- (a) that may prevent, or significantly affect, achievement of the business objectives of the Authority and its subsidiaries (if any) under the corporate plan; or

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Part 4—Corporate Plan

**s. 61**

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(b) that may prevent, or significantly affect  
achievement of the targets under the plan—  
the board must immediately notify the Minister  
and the Treasurer of its opinion and the reasons  
for the opinion.

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**PART 5—FINANCIAL PROVISIONS**

**62. General Fund**

- (1) The Authority must establish and keep a fund called the General Fund.
- (2) There shall be paid into the General Fund—
  - (a) all money received by the Authority, or on its behalf, in respect of, or in connection with, the carrying out of its functions or powers under this Act, except any function or power relating to a declared project;
  - (b) all income from the investment of money in the General Fund and the proceeds of sale of any such investment;
  - (c) all other money that the Authority receives for payment into the General Fund.
- (3) The Authority may pay money out of the General Fund—
  - (a) to pay any amounts payable by the Authority in respect of its functions or powers under this Act, except any function or power relating to a declared project;
  - (b) to pay any costs and expenses incurred by the Authority in relation to its functions or powers under this Act, except any function or power relating to a declared project;
  - (c) to repay any money borrowed by the Authority under this Act for any purpose (other than a declared project) or any other liability of the Authority together with any charges or interest on that money;
  - (d) for any other purpose authorised by this Act.

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### **63. Project Fund**

- (1) The Authority must establish and keep a fund called the Project Fund.
- (2) There shall be paid into the Project Fund—
  - (a) all money received by the Authority, or on its behalf, in respect of, or in connection with, the carrying out of its functions or powers under this Act relating to a declared project;
  - (b) all income from the investment of money in the Project Fund and the proceeds of sale of any such investment;
  - (c) all other money that the Authority receives for payment into the Project Fund.
- (3) The Authority may pay money out of the Project Fund—
  - (a) to pay any amounts payable by the Authority in respect of its functions or powers under this Act relating to a declared project;
  - (b) to pay any costs and expenses incurred by the Authority in relation to its functions or powers under this Act relating to a declared project;
  - (c) to repay any money borrowed by the Authority under this Act for any purpose relating to a declared project together with any charges or interest on that money.

### **64. Borrowing and investment by the Authority**

The Authority has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

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## **65. Capital**

- (1) The capital of the Authority is equal to the sum of—
  - (a) the assets and liabilities vested in the Authority under sections 81 and 85; and
  - (b) any part of the Authority's liabilities that is converted into capital at the direction of the Treasurer; and
  - (c) any amounts paid to the Authority out of money appropriated by the Parliament for the purpose of providing capital; and
  - (d) any part of the Authority's reserves that is converted into capital at the direction of the Treasurer after consultation with the board—less any amount of capital repaid under subsection (2).
- (2) The capital of the Authority is repayable to the State at such times, and in such amounts, as the Treasurer, after consultation with the Minister, directs in writing after consultation with the board.
- (3) In giving such a direction, the Treasurer shall have regard to any advice that the board has given to the Treasurer in relation to the Authority's affairs.

## **66. Dividends**

The Authority must pay to the State such amounts, at such times and in such manner, as are determined by the Treasurer after consultation with the board and the Minister.

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**67. Exceptions from sections 88 and 88B of State Owned Enterprises Act 1992**

- (1) Despite anything to the contrary in section 88 of the **State Owned Enterprises Act 1992**, a direction by the Treasurer to the Authority under that section to enter the NTER does not apply in relation to the following activities of the Authority—
    - (a) any activity relating to the docklands area (including any activity under Part 3A of the **Docklands Act 1991**); and
    - (b) an activity relating to a declared project, being an activity determined for the purposes of this sub-section by the Minister, with the approval of the Treasurer, and advised in writing to the Authority.
  - (2) Despite anything to the contrary in section 88B of the **State Owned Enterprises Act 1992**, that section does not apply to any land owned by the Authority in the docklands area or in a project area.
  - (3) This section has effect despite anything to the contrary in section 5 of the **State Owned Enterprises Act 1992**.
  - (4) In this section, "NTER" has the same meaning as in section 88 of the **State Owned Enterprises Act 1992**.
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**PART 6—REPORTS BY THE AUTHORITY**

**68. Reports to Minister or Treasurer**

The Minister or the Treasurer may, in writing, require the board to give the Minister or the Treasurer such information as the Minister or the Treasurer requires.

**69. Annual report**

The Authority, in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, must include—

- (a) a copy of each direction given to it during that year under section 9 together with a statement of its response to the direction; and
  - (b) a copy of the statement of corporate intent last completed.
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**PART 7—GENERAL**

**Division 1—Confidentiality**

**70. This Division binds the Crown**

This Division binds the Crown.

**71. Improper use of information**

A person connected with the Authority must not make improper use of information acquired because of that person's connection with the Authority—

- (a) to gain directly or indirectly any pecuniary advantage for himself or herself or anyone else; or
- (b) with intent to cause detriment to the Authority irrespective of whether detriment was caused.

Penalty: 50 penalty units.

**72. Information to be confidential**

A person connected with the Authority must not make a record of, or divulge or communicate to any person, information gained because of that connection with the Authority except—

- (a) in carrying out official duties; or
- (b) in carrying out duties or obligations under this Act or the **Docklands Act 1991** or the agreement or arrangement or as a participant in relation to the undertaking; or
- (c) with the consent of the Minister; or

- (d) to a court, in proceedings under this Act or the **Docklands Act 1991** or in relation to an agreement or arrangement made under this Act or the **Docklands Act 1991**.

Penalty: 50 penalty units.

### **73. Who is connected with the Authority?**

For the purpose of sections 71 and 72, a person is connected with the Authority if the person is or has been—

- (a) a director of the Authority or a member of its staff; or
- (b) a participant with the Authority in a body (corporate or unincorporate), trust, partnership, joint venture, or other joint undertaking; or
- (c) a party to an agreement or arrangement made with the Authority.

## **Division 2—Evidence and Legal Proceedings**

### **74. Proceedings**

Proceedings for an offence under this Act or the regulations may be brought by the Authority or a person authorised in writing by the Authority to do so either generally or in a particular case.

### **75. Evidence**

- (1) Proof is not required in the absence of evidence to the contrary—
  - (a) of the constitution of the Authority, the due appointment of its directors or the presence of a quorum at its meetings;
  - (b) of the appointment of any member of the Authority's staff;

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- (c) of the validity of appointment of a person purporting to act as delegate of the Authority;
  - (d) that a document appearing to be issued by or on behalf of the Authority was so issued;
  - (e) of the fixing of a charge by the Authority under this Act;
  - (f) of the validity of the contents of the Authority's records or minutes.
- (2) A document appearing to be part of a resolution or notice made or issued by the Authority under this Act and appearing to be authenticated by the Authority is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that a resolution or notice in those terms was duly made or issued by the Authority.
- (3) A document appearing to be issued by the Authority or appearing to be signed by the chairperson or chief executive of the Authority and stating the amount, liability to pay, extent of payment or other particulars relating to a charge under this Act or the **Docklands Act 1991** is, in the absence of evidence to the contrary, proof of the matters stated in the document.
- (4) A document requiring authentication by the Authority must be taken to be sufficiently authenticated without the Authority's seal if signed by the chairperson or chief executive of the Authority or by another person authorised in writing by the Authority to do so, either generally or in a particular case.
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**76. Service of documents**

- (1) A document required or permitted to be served on the Authority may be served by being left at its principal office with a person authorised in writing by the Authority to accept service of documents on behalf of the Authority.
- (2) A document required or permitted to be served by the Authority on a person may be served—
  - (a) by delivering it personally to that person;
  - (b) by leaving it at that person's usual or last known place of residence with a person apparently over the age of 16 years and apparently living there;
  - (c) by serving it by post addressed to that person at the person's last known place of residence;
  - (d) if the person is an owner or occupier of land whose name and address are not known to the Authority—
    - (i) by leaving it at the land with a person apparently over the age of 16 years and apparently living there;
    - (ii) by putting it up on a conspicuous part of the land;
  - (e) by serving it in any other prescribed way.
- (3) If the name and address of the owner or occupier of land are not known to the Authority, a document may be addressed to the "owner" or "occupier".
- (4) If a document is served on the owner or occupier of land the service is binding on any subsequent owner or occupier as if actually served on that person.

- (5) A statutory declaration by a person who has served or given a document to or on behalf of the Authority stating the manner, place, date and time the document was served or given is evidence of the document having been served or given.

**77. Other laws not affected**

This Division adds to and does not take away from any other Act, rule or law relating to evidence or the service of documents.

**Division 3—Duties of Registrar**

**78. Action by Registrar of Titles**

On being requested to do so and on delivery of any relevant instrument or document, the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of Part 3 or an Order made under that Part.

**Division 4—Regulations**

**79. Regulations**

- (1) The Governor in Council may make regulations for or with respect to prohibiting or regulating—
- (a) direct or indirect pecuniary interests of directors of the Authority and those members of staff of the Authority who are or are of a class specified in the regulations in contracts or proposed contracts with the Authority or other matters considered by the Authority, and the duties of persons in relation to those interests;
  - (b) the disclosure or recording of information about those interests;

- 
- (c) prescribing any matter or thing authorised or required to be prescribed or necessary or convenient to be prescribed for carrying this Act into effect.
- (2) The regulations—
- (a) may be of general or limited application;
  - (b) may differ according to differences in time place or circumstances;
  - (c) may leave anything to be determined or approved by any person;
  - (d) may impose penalties not exceeding 10 penalty units for breach of the regulations.
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**PART 8—TRANSITIONAL PROVISIONS**

**80. Definitions**

In this Part—

**"Docklands Authority"** means the Authority established by the **Docklands Authority Act 1991**.

**"URLC"** means the Urban and Regional Land Corporation established by the **Urban and Regional Land Corporation Act 1997**.

**81. Transitional—Docklands Authority**

(1) On the commencement of this Act—

- (a) the Docklands Authority is abolished and its members go out of office; and
  - (b) the Authority is the successor in law of the Docklands Authority; and
  - (c) all rights, assets, liabilities and obligations of the Docklands Authority immediately before its abolition become rights, assets, liabilities and obligations of the Authority; and
  - (d) all moneys standing to the credit of the General Fund of the Docklands Authority become moneys standing to the credit of the Docklands Fund of the Authority under the **Docklands Act 1991**; and
  - (e) the Authority is substituted as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the Docklands Authority; and
  - (f) the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to the Docklands Authority.
-



- 
- (2) An entitlement of a member or former member of the Docklands Authority to be indemnified under section 35J of the **Docklands Act 1991** in respect of anything done by the member or former member before the commencement of this Act, continues to apply to that member after that commencement as though a reference to a director of the Authority in section 35J were a reference to the member or former member.

**82. Transitional—staff of the Docklands Authority**

- (1) On the commencement of this Act all persons who are employees of the Docklands Authority at that commencement are deemed to be employees of the Authority on the same terms and conditions and with the same accrued and accruing entitlements as applied to that person immediately before that commencement as an employee of the Docklands Authority.
- (2) If sub-section (1) applies to a person—
- (a) the service of the person as an employee with the Authority is to be regarded for all purposes as having been continuous with the service of the employee with the Docklands Authority; and
  - (b) the person is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the Docklands Authority.
- (3) Nothing in this section prevents an employee of the Docklands Authority from resigning or being dismissed at any time after the commencement of this Act in accordance with the terms and conditions of his or her employment.

### 83. Transitional—chief executive

- (1) Despite section 22, the person who, immediately before the commencement of this Act, was the chief executive of the Docklands Authority under the **Docklands Authority Act 1991**, is deemed to be the chief executive of the Victorian Urban Development Authority on the same terms and conditions of appointment as those that applied to that person as chief executive of the Docklands Authority.
- (2) The appointment of the chief executive under sub-section (1) continues until the expiration of that person's term of appointment.
- (3) Nothing in this section prevents the chief executive from resigning, or the termination of the chief executive's appointment, at any time after the commencement of this Act in accordance with the terms and conditions of appointment of the chief executive referred to in sub-section (1).

### 84. Transitional—reappointment to public service

If a person, immediately before the repeal of section 47 of the **Docklands Authority Act 1991**, was entitled under that section—

- (a) to be employed under Part 3 of the **Public Sector Management and Employment Act 1998**; or
- (b) to have service with the Docklands Authority taken into account for long service leave; or
- (c) to continue to be an officer within the meaning of the **State Superannuation Act 1988**—

he or she continues to be so entitled while serving with the Authority after the commencement of this Act.

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**85. Transitional—URLC**

On the commencement of this Act—

- (a) URLC is abolished and its directors go out of office; and
- (b) the Authority is the successor in law of URLC; and
- (c) all rights, assets, liabilities and obligations of URLC immediately before its abolition become rights, assets, liabilities and obligations of the Authority; and
- (d) all moneys standing to the credit of URLC become moneys standing to the credit of the General Fund of the Authority under this Act; and
- (e) the Authority is substituted as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to URLC; and
- (f) the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to URLC.

**86. Transitional—staff of URLC**

- (1) On the commencement of this Act all persons who are employees of URLC at that commencement are deemed to be employees of the Authority on the same terms and conditions and with the same accrued and accruing entitlements as applied to that person immediately before that commencement as an employee of URLC.

- 
- (2) If sub-section (1) applies to a person—
- (a) the service of the person as an employee with the Authority is to be regarded for all purposes as having been continuous with the service of the employee with URLC; and
  - (b) the person is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of URLC.
- (3) Nothing in this section prevents an employee of URLC from resigning or being dismissed at any time after the commencement of this Act in accordance with the terms and conditions of his or her employment.

**87. Transitional—superseded references to Docklands Authority**

On and from the commencement of this Act, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind—

- (a) a reference to the **Docklands Authority Act 1991** is deemed to be a reference to the **Docklands Act 1991**; and
- (b) a reference to the Docklands Authority is deemed to be a reference to the Victorian Urban Development Authority—

so far as it relates to any period after that commencement, unless the context otherwise requires.

**88. Transitional—superseded references**

- (1) On and from the commencement of this Act, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind a reference to—
  - (a) the **Urban Land Authority Act 1979**; or

- (b) the **Urban Land Corporation Act 1997**; or
- (c) the **Urban and Regional Land Corporation Act 1997**—

is (so far as it relates to any period after that commencement and unless the context otherwise requires) deemed to be a reference to the **Victorian Urban Development Authority Act 2003**.

- (2) On and from the commencement of this Act, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind a reference to—

- (a) the Urban Land Authority; or
- (b) ULC; or
- (c) URLC—

is (so far as it relates to any period after that commencement and unless the context otherwise requires) deemed to be a reference to the Victorian Urban Development Authority.

#### **89. Saving of covenants**

Despite the repeal of section 37 of the **Urban and Regional Land Corporation Act 1997** by this Act, section 14 of the **Urban Land Authority Act 1979** continues to apply in relation to any covenant entered into under section 14 and existing immediately before the commencement of this Act as if—

- (a) any reference in section 14 to the Urban Land Authority were a reference to the Victorian Urban Development Authority; and

Victorian Urban Development Authority Act 2003

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Part 8—Transitional Provisions

**s. 89**

- 
- (b) the covenant had been created for the benefit of land of the Victorian Urban Development Authority.
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**PART 9—AMENDMENTS AND REPEALS**

**Division 1—Repeal of Urban and Regional Land  
Corporation Act 1997**

**90. Repeal of Urban and Regional Land Corporation  
Act 1997**

The **Urban and Regional Land Corporation  
Act 1997** is repealed.

**Division 2—Amendments to the Docklands Authority Act  
1991**

**91. Title**

In the title to the **Docklands Authority Act 1991**  
**omit "Authority"**.

See:  
Act No.  
22/1991.  
Reprint No. 2  
as at  
1 July 1999  
and  
amending  
Act Nos  
45/1999,  
30/2000,  
74/2000,  
11/2001 and  
44/2001.  
LawToday:  
www.  
legislation.  
vic.gov.au

**92. Purpose**

In section 1 of the **Docklands Authority Act  
1991 omit** all words after "area".

**93. Definitions**

In section 3 of the **Docklands Authority Act  
1991—**

- (a) for the definition of "Authority"  
**substitute—**

- 
- ' **"Authority"** means the Victorian Urban Development Authority established by the **Victorian Urban Development Authority Act 2003**;;
- (b) for the definition of "chief executive" **substitute—**
- ' **"chief executive"** means a person appointed under Part 2 of the **Victorian Urban Development Authority Act 2003** as chief executive of the Authority;;
- (c) the definition of "member" is **repealed**;
- (d) in the definition of "staff", for "14" **substitute "16 of the Victorian Urban Development Authority Act 2003"**.

**94. Division 1 of Part 2 substituted**

For Division 1 of Part 2 of the **Docklands Authority Act 1991** **substitute—**

**"Division 1—Representation of the Crown**

**6. Authority to represent the Crown for certain purposes**

The Authority—

- (a) holds on behalf of the Crown any property acquired by it or vested in it under this Act (except property vested in it under Part 3A or Part 7);
- (b) represents the Crown where—
- (i) it does anything under this Act in relation to Crown land (except anything done in the course of its municipal functions);



- (ii) it administers or enforces the **Building Act 1993** in relation to the docklands area;
- (iii) by agreement under this Act, it acts for the Crown or for a public sector agency that represents the Crown;
- (iv) acting as a planning authority or a responsible authority in relation to land in the docklands area—

but does not otherwise represent the Crown."

#### 95. Extended area of operation

In section 8 of the **Docklands Authority Act 1991** after "duties" insert "under this Act".

#### 96. Objective of the Authority

- (1) In section 9(1) of the **Docklands Authority Act 1991** after "Authority" insert "under this Act".
- (2) In section 9(2) of the **Docklands Authority Act 1991** after "powers" insert "under this Act".

#### 97. Functions of the Authority

- (1) In section 10 of the **Docklands Authority Act 1991** after "functions" (where first occurring) insert "under this Act".
- (2) For section 10(m) of the **Docklands Authority Act 1991** substitute—
  - "(m) to perform any other functions conferred on it—
    - (i) by or under this Act; or
    - (ii) by or under any other Act in relation to the docklands area."

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**98. General powers and duties**

- (1) In section 11(1) of the **Docklands Authority Act 1991** after "docklands area" **insert** "under this Act".
- (2) In section 11(2) of the **Docklands Authority Act 1991** after "functions" **insert** "under this Act".
- (3) In section 11(3) of the **Docklands Authority Act 1991** after "functions" **insert** "under this Act".

**99. Repeal of certain provisions**

Sections 12, 13, 14 and Division 1 of Part 3 of the **Docklands Authority Act 1991** are **repealed**.

**100. Acquisition of land**

- (1) In section 19(1) of the **Docklands Authority Act 1991** for "The Authority" **substitute** "For the purposes of this Act, the Authority".
- (2) In section 19(2) of the **Docklands Authority Act 1991** for "The Authority" **substitute** "For the purposes of this Act, the Authority".

**101. New section 19A inserted**

After section 19 of the **Docklands Authority Act 1991** **insert—**

**"19A. Creation of easements**

If any right in the nature of an easement or purporting to be an easement or an irrevocable licence is or has been acquired by the Authority under this Act, whether before or after the commencement of the **Victorian Urban Development Authority Act 2003**, the right is deemed for all purposes to be and to have been an easement even if there is no land vested in the Authority which is benefited by the right."

---

**102. Authority may surrender land to the Crown**

In section 23(1) of the **Docklands Authority Act 1991** after "1958" insert "in relation to land in the docklands area".

**103. Disposing of land in other ways**

- (1) In section 24(1) of the **Docklands Authority Act 1991** after "may" insert "for the purposes of this Act".
- (2) In section 24(2) of the **Docklands Authority Act 1991**—
  - (a) for "The Authority" substitute "For the purposes of this Act, the Authority";
  - (b) after "land" (where first occurring) insert "in the docklands area".

**104. Planning powers of the Authority**

In section 33(1) of the **Docklands Authority Act 1991** after "1987" insert "in relation to land in the docklands area".

**105. Tendering and other procedures**

In section 35(1) of the **Docklands Authority Act 1991** after "Authority" insert "under this Act".

**106. Indemnity**

- (1) In section 35J of the **Docklands Authority Act 1991** for "members" (where first occurring) substitute "directors".
- (2) In section 35J of the **Docklands Authority Act 1991** before "member" insert "director or".

---

**107. Section 36 substituted**

For section 36 of the **Docklands Authority Act 1991** substitute—

**"36. Docklands Fund**

- (1) The Authority must establish and keep a fund called the Docklands Fund.
- (2) The Authority must ensure that all the money received by it, or on its behalf, for the purposes of this Act is paid into the Docklands Fund.
- (3) The Authority may pay money out of the Docklands Fund—
  - (a) to pay any costs and expenses incurred by it in exercising its functions or powers under this Act;
  - (b) in relation to its municipal functions under this Act, for any purpose for which a council can apply money under section 136 of the **Local Government Act 1989**;
  - (c) to repay any money borrowed by it for the purposes of this Act together with any charges or interest on that money;
  - (d) for any other purpose authorised by this Act."

**108. Finances**

- (1) Sections 40(1) and 41 of the **Docklands Authority Act 1991** are repealed.
- (2) In section 40(4) of the **Docklands Authority Act 1991** after "Authority" (where first occurring) insert "for the purposes of this Act".

**109. Minister may appoint advisory committee**

In section 42(1) of the **Docklands Authority Act 1991** after "functions" **insert** "under this Act".

**110. Sections 44 to 47 repealed and new section 44 substituted**

For sections 44 to 47 of the **Docklands Authority Act 1991** substitute—

**"44. Documents relating to municipal functions not exempt**

- (1) A document relating to the municipal functions of the Authority is not an exempt document under section 38 of the **Freedom of Information Act 1982**.
- (2) Nothing in section 72 of the **Victorian Urban Development Authority Act 2003** is intended to affect the operation of this section."

**111. Evidence**

- (1) In section 49(1) of the **Docklands Authority Act 1991**—
  - (a) paragraphs (b), (c), (d), (f) and (h) are **repealed**;
  - (b) in paragraph (g) after "Authority" **insert** "under this Act".
- (2) In section 49(2) of the **Docklands Authority Act 1991** after "Authority" (where first occurring) **insert** "under this Act".
- (3) In section 49(3)(a) of the **Docklands Authority Act 1991** after "charge" **insert** "under this Act".
- (4) Section 49(4) of the **Docklands Authority Act 1991** is **repealed**.

**112. Service of documents**

Section 50 of the **Docklands Authority Act 1991** is **repealed**.

**113. Other laws not affected**

In section 51 of the **Docklands Authority Act 1991** omit "or the service of documents".

**114. Regulations**

Section 56(1) of the **Docklands Authority Act 1991** is **repealed**.

**115. Schedules 2 and 3 repealed**

Schedules 2 and 3 to the **Docklands Authority Act 1991** are **repealed**.

**Division 3—Consequential amendments to other Acts**

**116. Amendment to the Borrowing and Investment Powers Act 1987**

In Schedule 1 to the **Borrowing and Investment Powers Act 1987**—

(a) items 2A and 20AA are **repealed**;

(b) after item 23AA **insert**—

"23AB	Victorian Urban Development Authority	5, 8, 10, 11, 11AA, 11AB, 12, 13, 14, 14A, 15, 20, 20A and 21".
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**117. Amendment to the Emergency Management Act 1986**

For section 4(3) of the **Emergency Management Act 1986** **substitute**—

"(3) This Act applies in relation to the docklands area under the **Docklands Act 1991** as if—

- (a) a reference to a municipal district included a reference to the docklands area; and
- (b) a reference to a municipal council included a reference to the Victorian Urban Development Authority, in relation to the docklands area."

**118. Amendment to the Environment Protection Act 1970**

- (1) For section 4(3B) of the **Environment Protection Act 1970** substitute—

"(3B) This Act applies in relation to the docklands area under the **Docklands Act 1991** as if—

- (a) the docklands area were a municipal district; and
- (b) the Victorian Urban Development Authority were the municipal council; and
- (c) for the purposes of section 50I, the chief executive of the Victorian Urban Development Authority were a councillor."

- (2) In section 50S(6) of the **Environment Protection Act 1970** for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".

**119. Amendment to the Land Tax Act 1958**

- (1) For section 9(1AA)(b) of the **Land Tax Act 1958** substitute—

"(b) land vested in or occupied by the Victorian Urban Development Authority, other than—

- (i) land to which a declaration in force under sub-section (2C) applies;

(ii) land in the docklands area within the meaning of the **Docklands Act 1991**".

(2) In section 9(2C) of the **Land Tax Act 1958**—

- (a) for "**Urban and Regional Land Corporation Act 1997**" substitute "**Victorian Urban Development Authority Act 2003**";
- (b) for "Urban and Regional Land Corporation" substitute "Victorian Urban Development Authority".

**120. Amendment to the Melbourne and Metropolitan Board of Works Act 1958**

In the Third Schedule to the **Melbourne and Metropolitan Board of Works Act 1958**, in paragraph (e), for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".

**121. Amendment to the Melbourne City Link Act 1995**

- (1) In section 62(1) of the **Melbourne City Link Act 1995** for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".
- (2) In section 62(1)(b) of the **Melbourne City Link Act 1995** for "Docklands Authority" substitute "Victorian Urban Development Authority".
- (3) In section 96(5A) of the **Melbourne City Link Act 1995** for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".
- (4) For section 103(4) of the **Melbourne City Link Act 1995** substitute—  
"(4) This section applies to the powers under the **Local Government Act 1989** which are conferred on the Victorian Urban Development Authority under section 35G of the **Docklands Act 1991** as if a reference in sub-sections (1) and (2) to a Council were a



reference to the Victorian Urban Development Authority."

(5) For section 104(4) of the **Melbourne City Link Act 1995** substitute—

"(4) This section applies to local laws made or to be made by the Victorian Urban Development Authority under section 35D of the **Docklands Authority Act 1991** as if—

- (a) a reference in sub-section (1) to a Council were a reference to the Victorian Urban Development Authority; and
- (b) a reference in sub-sections (1) and (3) to the **Local Government Act 1989** were a reference to the **Docklands Act 1991**."

**122. Amendment to the Metropolitan Fire Brigades Act 1958**

(1) For section 3(2) of the **Metropolitan Fire Brigades Act 1958** substitute—

"(2) This Act applies in relation to the docklands area under the **Docklands Act 1991** as if—

- (a) a reference to a municipal district included a reference to the docklands area; and
- (b) a reference to a municipal council included a reference to the Victorian Urban Development Authority."

(2) In section 4(2A) of the **Metropolitan Fire Brigades Act 1958** for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".

**123. Amendment to the Public Holidays Act 1993**

In section 3(3) of the **Public Holidays Act 1993** for "**Docklands Authority Act 1991**" substitute "**Docklands Act 1991**".

**124. Amendment to the Transport Act 1983**

In section 37A(2) of the **Transport Act 1983**, in the definition of "public authority", for paragraph (c) **substitute—**

"(c) the Victorian Urban Development Authority established under the **Victorian Urban Development Authority Act 2003**";.

**125. Amendment to the Treasury Corporation of Victoria Act 1992**

- (1) In section 36A of the **Treasury Corporation of Victoria Act 1992**, in the definition of "public authority", for "Urban and Regional Land Corporation" **substitute** "Victorian Urban Development Authority".
- (2) In Schedule 1 to the **Treasury Corporation of Victoria Act 1992—**
  - (a) in column 1, for "Urban and Regional Land Corporation" **substitute** "Victorian Urban Development Authority";
  - (b) in column 2, for "**Urban and Regional Land Corporation Act 1997**" substitute "**Victorian Urban Development Authority Act 2003**".

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**126. Amendment to the Victoria Grants Commission Act 1976**

For section 2(2) of the **Victoria Grants Commission Act 1976** substitute—

"(2) This Act applies in relation to the docklands area under the **Docklands Act 1991** as if—

- (a) the docklands area were a municipal district; and
  - (b) the Victorian Urban Development Authority were the municipal council; and
  - (c) for the purposes of section 15, a director or the chief executive of the Victorian Urban Development Authority were a councillor."
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## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 1 May 2003*

*Legislative Council: 22 May 2003*

The long title for the Bill for this Act was "to establish the Victorian Urban Development Authority to carry out urban development, develop the docklands area and undertake declared projects, to provide for special powers in relation to declared projects, to repeal the **Urban and Regional Land Corporation Act 1997**, to amend the **Docklands Authority Act 1991** and other Acts and for other purposes."

The **Victorian Urban Development Authority Act 2003** was assented to on 16 June 2003 and came into operation on 1 August 2003: Government Gazette 31 July 2003 page 2125.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Victorian Urban Development Authority Act 2003** by Acts and subordinate instruments.

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### **Public Administration Act 2004, No. 108/2004**

<i>Assent Date:</i>	21.12.04
<i>Commencement Date:</i>	S. 117(1)(Sch. 3 item 230) on 5.4.05: Government Gazette 31.3.05 p. 602
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Victorian Urban Development Authority Act 2003</b>

### **Transport Legislation (Further Miscellaneous Amendments) Act 2005, No. 95/2005**

<i>Assent Date:</i>	29.11.05
<i>Commencement Date:</i>	S. 12(4) on 13.12.05: Special Gazette (No. 254) 13.12.05 p. 1
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Victorian Urban Development Authority Act 2003</b>

### **Victorian Urban Development Authority (Amendment) Act 2006, No. 35/2006**

<i>Assent Date:</i>	13.6.06
<i>Commencement Date:</i>	Ss 3–7 on 1.9.06: s. 2(2)
<i>Current State:</i>	This information relates only to provision/s amending the <b>Victorian Urban Development Authority Act 2003</b>

### **Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006**

<i>Assent Date:</i>	10.10.06
<i>Commencement Date:</i>	S. 26(Sch. item 114) on 11.10.06: s. 2(1)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Victorian Urban Development Authority Act 2003</b>

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<b>Endnotes</b>
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**3. Explanatory Details**

No entries at date of publication.

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