

Libraries Bill

No.

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Clause

1. Purposes.
2. Commencement.
3. Definitions.
4. State collection.

PART 2—LIBRARIES BOARD OF VICTORIA

5. Establishment of the Libraries Board.
6. Objectives.
7. Functions.
8. Powers.
9. Members.
10. Terms and conditions of appointment.
11. Membership of Board not office of profit.
12. Meetings of the Board.
13. Advisory groups.
14. Delegations.
15. Annual report.

PART 3—COUNCIL OF THE STATE LIBRARY OF VICTORIA

16. Establishment of the Council.
17. Objectives.
18. Functions.
19. Powers.
20. Council to represent Crown.
21. Council subject to control of Minister.
22. Members.
23. Terms and conditions of appointment.
24. Membership of Council not office of profit.
25. Meetings of the Council.
26. Declaration of interests of members.
27. Committees.
28. Delegations.
29. Director of the State Library.
30. Employment of staff.
31. Bank accounts.
32. Borrowing power.
33. Accounts and records.
34. Annual report.
35. Audit.
36. Transfer to Consolidated Fund.

PART 4—LIBRARY PURPOSES TRUSTS

- 37. Leasing.
- 38. Borrowings.
- 39. Default.
- 40. Application of money.
- 41. Trustees may make regulations.
- 42. Surrender of certain library land.
- 43. Transfer or surrender of certain land held in trust.
- 44. Transfers, conveyances and surrenders generally.
- 45. No compensation payable.
- 46. Power to demand and receive charges etc.
- 47. Accounts and audit.
- 48. Provision of Crown grant or trust instrument to prevail.

PART 5—MISCELLANEOUS

- 49. Legal deposit.
- 50. Sale, disposal or exchange of object in State collection.
- 51. Disposal of unclaimed property.
- 52. Council may make by-laws.
- 53. Regulations.

PART 6—REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

- 54. Repeals.
- 55. Consequential amendments.
- 56. Transitional provision.

LEGISLATIVE ASSEMBLY

Read 1 13 April 1988

(Brought in by Mr Cathie and Mr McCutcheon)

A BILL

to constitute a Libraries Board of Victoria and a Council of the State Library of Victoria, to repeal the *Libraries Act* 1958 and the *Library Council of Victoria Act* 1965 and for other purposes.

Libraries Act 1988

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purposes.

- 5 1. The purposes of this Act are to establish a Libraries Board of Victoria and a Council of the State Library of Victoria, to make provision for the co-ordination and organisation of libraries and to make provision for land subject to library purposes trusts.

Commencement.

2. This Act comes into operation on 1 July 1988.

10 Definitions.

3. In this Act—

- 15 “**Bank**” means a bank as defined in section 5 of the *Banking Act* 1959 of the Commonwealth as amended and in force for the time being or a bank constituted under a law of a State or Territory.

- “Board”** means the Libraries Board of Victoria constituted under section 5.
- “Council”** means the Council of the State Library of Victoria established under section 16.
- “Director”** means the Director of the State Library of Victoria appointed under section 29. 5
- “Information organisation”** means a person who provides a prescribed information service or a service included in a prescribed class of information services.
- “Library land”** means land granted by the Crown to trustees for library purposes, whether— 10
- (a) the trustees hold the land as trustees for, or as the governing body of, or otherwise on behalf of, an unincorporated association; or
 - (b) the trust is created by Crown grant, deed, will or any other instrument whatever— 15
- and in sections 37 to 41 includes land held by trustees for library purposes otherwise than by grant from the Crown.
- “Library material”** includes books, periodicals, newspapers, pamphlets, manuscripts, films, sound recordings, musical scores, maps, charts, plans, pictures, photographs, prints and other recorded material, whether in writing or in some other form, and whether stored on microfilm, microfiche, disc or any other method of information storage. 20
- “Library purposes”** means the purposes of— 25
- (a) a free library, reading room, mechanics’ institute or trades’ hall; or
 - (b) a body corporate the objects or purposes of which include the establishment or conduct of a free library, reading room, mechanics’ institute or trades’ hall; or 30
 - (c) the members for the time being of an unincorporated body formed to establish or conduct a free library, reading room, mechanics’ institute or trades’ hall.
- “Publication”** includes the whole or any part of any printed book, periodical, newspaper, pamphlet, musical score, map, chart, plan, picture, photograph, print and any other printed matter. 35
- “Trustees”** —
- (a) in relation to library land for which there is a committee of management, means the trustees for the time being acting on the recommendation of that committee; and 40
 - (b) in relation to library land for which there is no committee of management, means the trustees for the time being of the trust on which the library land is held.

State collection.**4. The State collection of library material comprises—**

- (a) all library material vested in the Council; and
- (b) all publications material deposited with the Council under section 49 and accepted for the State collection; and
- (c) all library material acquired for the State collection by the Council; and
- (d) all donations, gifts, dispositions and trusts of property real or personal, other than money, lawfully made or declared whether before or after the commencement of this Act by deed, will or otherwise to or in favour of the trustees of the Public Library or of the State Library or of the Library Council of Victoria or for the uses or purposes of those persons or bodies.

PART 2—LIBRARIES BOARD OF VICTORIA**Establishment of the Libraries Board.**

5. There shall be established a Board called the Libraries Board of Victoria.

Objectives.**6. The objectives of the Board are—**

- (a) to provide advice and information to the Minister on any matter concerning libraries and information organisations; and
- (b) to identify and develop opportunities to use resources provided by libraries and information organisations; and
- (c) to identify and promote opportunities for the government to achieve co-ordination and cost efficiency in libraries and information organisations; and
- (d) to promote better awareness and use of libraries and information organisations; and
- (e) to identify opportunities for central planning and funding bodies to adopt policies or to take action which will achieve co-ordination objectives; and
- (f) to improve libraries and information organisations; and
- (g) to facilitate consultancy activities and co-operation amongst libraries and information organisations.

Functions.

7. The functions of the Board are to do all things necessary to carry out its objectives and without limiting the generality of its functions—

- (a) to make recommendations to the Minister on the allocation of funds made available for promotion and advancement of co-operation between libraries and information organisations; and 5
- (b) to monitor developments in matters relevant to libraries and information organisations and evaluate their potential use; and 10
- (c) to promote and encourage research in matters relevant to libraries and information organisations; and
- (d) to receive advice from advisory groups established by the Board or from any other person or body nominated by the Board; and 15
- (e) to advise the Minister on matters referred to it by the Minister.

Powers.

8. Subject to this Act, the Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions. 20

Members.

9. The Board shall consist of eleven members appointed by the Minister, of whom—

- (a) one shall be appointed as President; and 25
- (b) one shall be a person who, in the opinion of the Minister, is distinguished in industry or commerce; and
- (c) one shall be a person who, in the opinion of the Minister, is distinguished in information services or community services; and 30
- (d) one shall be a professional librarian selected from a panel of not less than three names submitted by the Library Association of Australia (Victorian Branch); and
- (e) two shall be persons representing local government with expertise in the funding of public libraries; and 35
- (f) one shall be a person representing the wider education ministry and the school system in particular; and
- (g) one shall be a person representing tertiary educational institutions; and
- (h) one shall be a person representing government departments (other than the Ministry for the Arts) and public statutory authorities with library interests; and 40

(i) one shall be a member of the Council of the State Library of Victoria; and

(j) one shall be a person representing the Ministry for the Arts.

5 (2) The Minister must appoint to the Board no less than three persons who have experience in librarianship or information organisations.

10 (3) If the Library Association of Australia (Victorian Branch) does not within one month after receiving a request in writing from the Minister to submit a panel of names for the purposes of this section, submit a panel of names, the Minister may appoint a person whom the Minister considers appropriate and that person shall be deemed to have been nominated by the Library Association of Australia (Victorian Branch).

Terms and conditions of appointment.

15 10. (1) A member of the Board holds office for the period, not exceeding 3 years, specified in the instrument of appointment and, subject to sub-section (2), is eligible for re-appointment.

20 (2) A person who has been a member of the Board for 9 consecutive years ceases to hold office and is not eligible for re-appointment unless a period of 3 years or more has elapsed since the person last was a member of the Board.

(3) The Minister may in the instrument of appointment of a member of the Board specify terms and conditions of appointment.

25 (4) The Minister may at any time remove a member of the Board from office.

(5) A person who has attained the age of 72 years is not capable of being appointed or re-appointed as a member.

(6) The office of a member of the Board becomes vacant—

30 (a) if the member 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

(b) if the member is wilfully absent from three consecutive meetings of the Board without the leave of the Board; or

35 (c) if the member attains the age of 72 years.

(7) A member may resign his or her office in writing given to the Minister.

40 (8) A member of the Board is entitled to be paid such allowances for travelling and personal expenses, if any, in accordance with the conditions and at the rates provided for officers in Group III of the Public Service Determinations 1985 as amended from time to time.

Membership of Board not office of profit.

11. A member of the Board shall not 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 5
- (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 liability to a penalty under the *Constitution Act 1975*. 10

Meetings of the Board.

12. (1) The President must preside at any meeting of the Board at which the President is present.

(2) If the President is not present at the time fixed for the commencement of a meeting of the Board, the members present at the meeting must appoint a member to preside. 15

(3) A majority of members in office at the time constitutes a quorum.

(4) Subject to the presence of a quorum, the Board may act notwithstanding a vacancy in its membership. 20

(5) A question arising at a meeting of the Board is determined by a majority of votes of the members present and voting on the question and, if the votes are equal, the person presiding has a casting vote.

(6) An act or decision of the Board is not invalid by reason only of a defect or irregularity in or in connection with the appointment of a member of the Board. 25

(7) Subject to this Act, the Board may regulate its own procedure.

Advisory groups.

13. (1) The Board may from time to time establish any advisory group that it considers desirable. 30

(2) The function of an advisory group is to advise or assist the Board in relation to the performance of any of its functions under this Act.

(3) An advisory group must consist of not less than two members of the Board and any other person or persons appointed by the Board to be members of the advisory group. 35

(4) The chairperson of an advisory group—

- (a) must be appointed by the Board; and

(b) must be appointed from the members of the advisory group who are members of the Board.

(5) Subject to this Act and to any directions of the Board, an advisory group may regulate its own proceedings.

5 (6) An advisory group may be dissolved by the Board at any time.

Delegations.

14. The Board may, by instrument, delegate to a member of the Board any power or function of the Board under this Act, other than this power of delegation.

10 Annual report.

15. (1) As soon as is practicable in each year but not later than 30 September, the Board must cause to be prepared and delivered to the Minister a report of the operations of the Board during the year ending on the preceding 30 June.

15 (2) The Minister must cause a report received by the Minister under sub-section (1) to be laid before each House of the Parliament within 3 weeks after it is received if that House is then sitting or, if that House is not then sitting, within 14 sitting days of the next meeting of that House.

20 PART 3—COUNCIL OF THE STATE LIBRARY OF VICTORIA

Establishment of the Council.

16. (1) There is established a Council called the Council of the State Library of Victoria.

(2) The Council—

- 25 (a) is a body corporate with perpetual succession; and
(b) has an official seal; and
(c) may sue and be sued in its corporate name; and
(d) is capable of acquiring, holding, dealing with or disposing
30 of property for the purpose of performing its functions and exercising its powers; and
(e) is capable of doing and suffering anything that a body corporate may by law do and suffer, and that is necessary or expedient for performing its functions and exercising its powers.

35 (3) The official seal must be kept as directed by the Council and must only be used as authorised by the Council.

(4) All courts must take judicial notice of the imprint of the official seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

Objectives.

17. The objectives of the Council are—

- (a) to ensure that the State collection is managed, operated and accommodated in an efficient and economic manner as a major source of knowledge and information for general reference, specialist enquiry and research; and 5
- (b) to oversee the provision and promotion of access to information through the services and collections of the State collection; and
- (c) to oversee co-operation in programs with other libraries and information organisations to promote access to library and information services and resources; and 10
- (d) to exercise leadership and promote high standards in the provision of library and information services; and
- (e) to contribute to the enrichment of the cultural, educational, social and economic life of the people of Victoria. 15

Functions.

18. The functions of the Council are to do all things necessary to carry out its objectives and, without limiting the generality of its functions— 20

- (a) to ensure the maintenance, preservation and development of a State collection of library material including a comprehensive collection of library material relating to Victoria and the people of Victoria; and
- (b) to ensure that library material in the State collection is available to such persons and institutions, and in such manner and subject to such conditions as the Council determines with a view to the most advantageous use of the State collection; and 25
- (c) to ensure the availability of such other services and facilities in relation to library matters and library material (including bibliographical services) as the Council determines; and 30
- (d) to arrange the publication and sale of reproductions of any library material in the State collection; and
- (e) to oversee the exhibition of material from the State collection for information, education and entertainment; and 35
- (f) to ensure the preservation of certain public records.

Powers.

19. The Council has power to do all things necessary or convenient to be done for or in connection with the performance of its functions including but not limited to the power— 40

- (a) to enter into contracts, agreements or arrangements with any person or body of persons and do everything, including

the payment of money, that is necessary or expedient for carrying the contracts, agreements or arrangements into effect; and

- 5 (b) to accept real or personal property by purchase, gift, grant, devise or bequest, whether on trust or otherwise; and
- (c) to act as trustee of money, library material or other property vested in the Council upon trust.

Council to represent Crown.

- 10 20. In performing its functions and exercising its powers under this Act the Council represents the Crown in the right of the State.

Council subject to control of Minister.

21. In performing its functions and exercising its powers under this Act, the Council is subject to the general direction and control of the Minister.

15 **Members.**

22. (1) The Council shall consist of nine members appointed by the Governor in Council on the recommendation of the Minister, of whom—

- 20 (a) one shall be appointed as President; and
- (b) one shall be a person holding a senior academic office; and
- (c) one shall be a person who, in the opinion of the Minister, is experienced in business administration and finance; and
- (d) one shall be a person who, in the opinion of the Minister, is a distinguished lawyer; and
- 25 (e) one shall be a professional librarian selected by the Minister from a panel of not less than three names submitted by the Library Association of Australia (Victorian Branch); and
- (f) one shall be a person holding a senior government office.

- 30 (2) If the Library Association of Australia (Victorian Branch) does not within one month after receiving a request in writing from the Minister to submit a panel of names for the purposes of this section, submit a panel of names, the Governor in Council may appoint a person or persons whom the Minister considers appropriate and that person or those persons shall be deemed to have been nominated by
- 35 the Library Association of Australia (Victorian Branch).

(3) The Council must appoint two of its members (other than the President) to be Deputy President and Treasurer respectively.

Terms and conditions of appointment.

23. (1) A member of the Council holds office for the period, not exceeding 3 years, specified in the instrument of appointment and, subject to sub-section (2), is eligible for re-appointment.

(2) A person who has been a member of the Council for 9 consecutive years ceases to hold office and is not eligible for re-appointment unless a period of 3 years or more has elapsed since the person last was a member of the Council. 5

(3) The Governor in Council may at any time remove a member of the Council from office. 10

(4) A person who has attained the age of 72 years is not capable of being appointed or re-appointed as a member.

(5) The office of a member of the Council becomes vacant—

(a) if the member 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 15

(b) if the member is wilfully absent from three consecutive meetings of the Council without the Council's leave; or

(c) if the member attains the age of 72 years. 20

(6) A member may resign his or her office in writing given to the Governor in Council.

(7) A member of the Council is not, in respect of the office of member, subject to the *Public Service Act* 1974.

(8) A member of the Council is entitled to be paid such allowances for travelling and personal expenses, if any, in accordance with the conditions and at the rates provided for officers in Group III of the Public Service Determinations 1985 as amended from time to time. 25

(9) A member is appointed subject to any other terms and conditions that are specified in the instrument of appointment. 30

Membership of Council not office of profit.

24. A member of the Council shall not 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 35

(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 liability to a penalty under the *Constitution Act* 1975. 40

Meetings of the Council.

25. (1) The President must preside at any meeting of the Council at which the President is present.

5 (2) If the President is absent, the Deputy President or, if the Deputy President is also absent, a member elected by the members present must preside.

(3) A majority of members in office at the time constitutes a quorum.

10 (4) Subject to the presence of a quorum, the Council may act notwithstanding a vacancy in its membership.

(5) A question arising at a meeting of the Council is determined by a majority of votes of the members present and voting on the question and, if the votes are equal, the person presiding has a casting vote.

15 (6) The Council must meet on at least 8 occasions in each year at the times and places that are determined by the President or the Council.

(7) An act or decision of the Council is not invalid by reason only of a defect or irregularity in or in connection with the appointment of a member of the Council.

(8) Subject to this Act, the Council may regulate its own procedure.

20 **Declaration of interests of members.**

25 26. (1) A member of the Council who has any direct or indirect interest in a contract or proposed contract with the Council must declare the nature of the member's interest at a meeting of the Council as soon as practicable after the relevant facts have come to the member's knowledge.

30 (2) The requirements of sub-section (1) do not apply if the member's interest consists only of being a member or creditor of a company which has an interest in a contract or proposed contract with the Council if the member's interest may properly be regarded as not being a material interest.

35 (3) A member of the Council who holds any office or possesses any real or personal property as a result of which, directly or indirectly, duties or interests may be created in conflict with the member's duties or interests as member, must declare the fact, nature and extent of the conflict at a meeting of the Council as soon as practicable after the member becomes aware of the possibility of conflict.

(4) The person presiding at a meeting at which a declaration is made under this section must cause a record of the declaration to be made in the minutes of the meeting.

Committees.

27. (1) The Council may from time to time form any committee that it considers desirable.

(2) The function of a committee is—

- (a) to advise or assist the Council in relation to the performance of any of its functions or exercise of any of its powers under this Act; and 5
- (b) to perform any function or exercise any power delegated to it under section 28.

(3) A committee must consist of not less than two members of the Council and any other person or persons that may be appointed by the Council to be members of that committee. 10

(4) The chairperson of a committee—

- (a) must be appointed by the Council; and
- (b) must be appointed from the members of the committee who are members of the Council. 15

(5) Subject to this Act and to any directions of the Council, a committee may regulate its own procedure.

(6) A committee may be dissolved by the Council at any time.

Delegations.

20

28. The Council may, by instrument under its official seal, delegate to a committee established under section 27 or to an officer or member of staff any power or function of the Council under this Act, other than this power of delegation.

Director of the State Library.

25

29. (1) Subject to the *Public Service Act* 1974 there shall be appointed a Director of the State Library of Victoria.

(2) The Director shall—

- (a) be the chief executive officer of the Council; and
- (b) attend meetings of the Council; and 30
- (c) have the control and management of the day to day affairs of the Council in accordance with directions given by the Council; and
- (d) manage the State collection, subject to the direction of the Council. 35

Employment of staff.

30. Subject to the *Public Service Act* 1974 there may be appointed such officers and employees as are necessary to carry this Act into effect.

Bank accounts.

31. (1) The Council may establish and keep in any bank or banks an account or accounts in the name of the Council approved for the purpose by the Treasurer.

5 (2) The Council must pay into any bank account or accounts referred to in sub-section (1) all money received by it, other than money to which sub-section (4) applies, and may make out of an account any payment for or towards the costs and expenses of or incidental to the performance of functions or exercise of powers of the Council under
10 this Act.

(3) The Council may invest money standing to its credit in a bank account—

- 15 (a) in any manner in which trust funds may be invested under section 4 of the *Trustee Act* 1958; or
(b) in any manner that the Treasurer from time to time approves.

(4) This section does not apply to money received or paid out by the Council subject to and in accordance with the terms of a special trust.

20 **Borrowing power.**

32. (1) The Council may, with the approval of the Treasurer on the recommendation of the Minister and subject to any conditions that the Treasurer thinks fit—

- 25 (a) obtain a financial benefit or assistance to obtain a financial benefit by way of overdraft of account at any bank or other financial institution in Australia; or
(b) obtain financial accommodation within Australia from an institution, person or body approved by the Treasurer on the recommendation of the Minister; or
30 (c) give security for financial accommodation so obtained in the form approved by the Treasurer.

(2) The due satisfaction of amounts payable by the Council as a result of or in connection with—

- 35 (a) the provision to the Council of a financial benefit or assistance to obtain a financial benefit; or
(b) the provision to the Council of financial accommodation—
under this section or under any previous corresponding enactment including the payment of expenses of enforcing or obtaining or endeavouring to enforce or obtain such satisfaction is guaranteed by
40 the Government of Victoria.

(3) Any sum required by the Treasurer to fulfil a guarantee given by this section shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.

(4) Any sum received or recovered by the Treasurer from the Council or otherwise in respect of any sums paid by the Treasurer under a guarantee shall be paid into the Consolidated Fund.

Accounts and records.

33. (1) The Council must ensure that there are kept proper accounts and records of the transactions and affairs of the Council and such other records as sufficiently explain the financial position of the Council. 5

(2) The Council must do all things necessary to do each of the following:

- (a) Ensure that all money payable to the Council is properly collected; 10
- (b) Ensure that all money expended by the Council is properly expended and properly authorised;
- (c) Ensure that adequate control is maintained over assets secured by, or in the custody of, the Council; 15
- (d) Ensure that all liabilities incurred by the Council are properly authorised;
- (e) Ensure efficiency and economy of operations and avoidance of waste and extravagance;
- (f) Develop and maintain an adequate budgeting and accounting system; 20
- (g) Develop and maintain an adequate internal audit system.

Annual report.

34. (1) The Council must, in respect of each financial year, prepare an annual report containing— 25

- (a) a report of its operations during the financial year; and
- (b) financial statements for the financial year—

and submit the report to the Minister not later than 31 October next following the financial year.

(2) The report of operations referred to in sub-section (1) (a)— 30

- (a) must be prepared in a form and contain information determined by the Council to be appropriate; and
- (b) must contain any further information required by the Minister.

(3) The financial statements referred to in sub-section (1) (b)— 35

- (a) must contain information determined by the Treasurer to be appropriate; and
- (b) must be prepared in a manner and form approved by the Treasurer; and

(c) must present fairly the results of the financial transactions of the Council during the financial year to which they relate and the financial position as at the end of that year; and

(d) must be signed by the principal accounting officer (by whatever name called) of the Council and by the President and another member of the Council who shall—

(i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Council during the financial year to which they relate and whether they sufficiently explain the financial position of the Council as at the end of the financial year; and

(ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that render any particulars included in the statements misleading or inaccurate and, if so, particulars of the circumstances; and

(e) must be audited as required by section 35 (1).

(4) The Minister must cause each annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister.

(5) If the Council fails to submit an annual report to the Minister—

(a) if an extension has not been granted under sub-section (7)—by 31 October in any year; or

(b) if such an extension has been granted—by the date to which the extension was granted—

the Minister must report or cause to be reported that failure and the reasons for the failure to each House of the Parliament.

(6) The Council may apply in writing to the Minister for an extension of the date by which an annual report is to be submitted to the Minister.

(7) The Minister may in writing grant to the Council an extension to such date as the Minister determines.

(8) The Minister must advise or cause to be advised each House of the Parliament of each extension granted under this section and the reasons for the extension.

(9) This section does not apply to the Council if, as a result of an order made under the *Annual Reporting Act* 1983, the Council is required to submit an annual report under that Act.

Audit.

35. (1) The financial statements referred to in section 34 must be audited by the Auditor-General.

(2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts. 5

(3) Without limiting the generality of sub-section (2), the Auditor-General and each officer of the Auditor-General—

- (a) has right of access at all times to the books of the Council; and 10
- (b) may require from an officer or employee of the Council any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.

(4) The Council must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General. 15

Transfer to Consolidated Fund.

36. Before 30 September in each year, the Council must pay to the Treasurer for payment to the Consolidated Fund an amount determined by the Treasurer after consultation with the Minister as a contribution towards the capital costs previously provided from the Consolidated Fund. 20

PART 4—LIBRARY PURPOSES TRUSTS

Leasing. 25

37. (1) This section applies despite anything to the contrary in any Crown grant or instrument of trust.

(2) The trustees of library land may lease it or a part of it to any person, if the land to be leased is not immediately required for library purposes. 30

(3) A lease under this section—

- (a) if it is a building lease that provides for the erection of buildings for library purposes and associated purposes, must be for a term of not more than 50 years; and
- (b) in any other case, must be for a term of not more than 31 years; and 35
- (c) may be on any other terms that the trustees think fit.

(4) The trustees must not apply rent received under a lease under this section for any purpose except—

- (a) repaying money borrowed under this Part or a corresponding previous enactment and paying interest in respect of any money so borrowed; or
- 5 (b) a library purpose or an associated purpose being a purpose authorised by the document creating the trust or any relevant document of title.

Borrowings.

10 38. (1) To finance the erection of buildings for library purposes and associated purposes, the trustees of library land may with the Minister's approval, borrow and re-borrow money.

(2) Money may be borrowed under sub-section (1) on the security of—

- 15 (a) an assignment of the rents payable, or which may become payable, to the trustees under any lease under this Part; or
- (b) the issue of debentures payable to bearer with interest coupons attached.

(3) An assignment under sub-section (2) (a) must be by deed and may relate to a person or future entitlements for rents.

20 (4) Debentures under sub-section (2) (b) may be issued on any terms that the trustees think fit.

(5) The trustees of library land must not apply money borrowed under this section for any purpose except a library purpose or an associated purpose, being a purpose authorised by the instrument creating the trust or any relevant document of title.

25 Default.

39. (1) If the trustees of library land—

- (a) fail to repay money borrowed under this Part; or
- (b) fail to pay interest in respect of money so borrowed—

30 as and when the payment is due, the lender or the holder for the time being of a deed of assignment or debenture may apply to the Supreme Court for an order under sub-section (2).

35 (2) On application in accordance with sub-section (1), the Supreme Court may make an order appointing a receiver for the whole or a specified part of rents payable or which may become payable to the trustees, to the extent that the Court considers necessary for repayment of the loan and payment of interest.

(3) If a receiver has been appointed under sub-section (2), the person who applied for the receiver's appointment or the receiver may apply to the Supreme Court for an order under sub-section (4).

40 (4) On application in accordance with sub-section (3), the Court may make an order terminating the receiver's appointment.

(5) When making an order under sub-section (2) or (4), the Court may make any other incidental order that it considers appropriate.

(6) A receiver appointed under this section—

- (a) is deemed to be an officer of the Supreme Court and is subject to its direction; and 5
- (b) is entitled to receive rents from time to time becoming payable to the trustees in accordance with the order of appointment; and
- (c) is entitled to receive out of the money coming into the receiver's hand under paragraph (b) any commission or remuneration that the Supreme Court determines; and 10
- (d) after deducting any commission or remuneration to which the receiver is entitled, and expenses of the receivership, must hold any money coming into the receiver's hand in accordance with the order for the benefit of the lender or the holder for the time being of any relevant deed of assignment or debenture. 15

Application of money.

40. (1) A receipt, if given by the trustees of library land or by any committee of management of library land and relating to rents under a lease of that land, is sufficient discharge to the lessee and the lessee need not enquire as to the application of the rent. 20

(2) A person lending money to the trustees of library land—

- (a) need not enquire as to the application of the money lent; and 25
- (b) is not liable for the loss or misapplication of any money so lent.

Trustees may make regulations.

41. With the Minister's approval, the trustees of library land may, for that land, make regulations for or with respect to— 30

- (a) the appointment, election, resignation and removal of trustees; and
- (b) the constitution, functions, powers and duties of a committee of management.

Surrender of certain library land. 35

42. (1) This section applies despite anything to the contrary in any Crown grant.

(2) The trustees of library land to which this section applies and the council of the municipal district in which the land is located may jointly apply to the Minister for authority to surrender the land to the Crown. 40

(3) An application under sub-section (2)—

(a) must be in accordance with the regulations; and

(b) must include a written consent of any lessee of the land.

5 (4) On application in accordance with this section, the Minister may authorise the trustees to surrender the land to the Crown, if the Minister is satisfied that the land is no longer required for library purposes.

(5) If the Minister so authorises, the trustees of library land may surrender it by transferring or conveying it to the Crown.

10 **Transfer or surrender of certain land held in trust.**

43. (1) This section applies despite anything to the contrary in any Crown grant or document of title or in any trust instrument whatever.

(2) In this section “eligible person”—

15 (a) in relation to land which is under the operation of the *Transfer of Land Act* 1958, means the registered proprietor of an estate in fee simple in the land; and

20 (b) in relation to land which is not under the operation of that Act, means a person who, from the Register kept under the *Property Law Act* 1958, appears to be the owner of an estate in fee simple in the land; and

(c) if a person mentioned in paragraph (a) or (b) is dead or the whereabouts of the person are unknown, means the council of the municipal district in which the land is located.

25 (3) This section applies to land specified in a notice published under sub-section (6).

(4) An eligible person may request the Minister to make a declaration under sub-section (6).

(5) A request under sub-section (4)—

30 (a) must be in writing; and

(b) must include a certificate signed by the municipal clerk of the council of the municipal district in which the land is located stating that, after having made reasonable enquiries, he or she is satisfied the land has been used for library purposes and is no longer required for those purposes.

35 (6) On a request in accordance with this section, the Minister may by notice published in the *Government Gazette* declare land specified in the notice to be land to which this section applies if the Minister is satisfied that the land has been used for library purposes.

40 (7) The Minister cannot under sub-section (6) declare library land to be land to which this section applies.

(8) An eligible person may apply to the Minister for authority to surrender to the Crown land to which this section applies or to transfer or convey it to the council of the municipal district in which the land is located.

(9) An application under sub-section (8)—

5

(a) must be in accordance with the regulations; and

(b) if the applicant is not a council, must include the written consent of the council to the application; and

(c) must include the written consent to the application of any lessee, mortgagee or other person having an estate or interest in the land.

10

(10) Within 14 days after making an application under this section, the applicant must cause notice of the application to be published in a newspaper circulating in the area in which the land is located and in a newspaper circulating generally in Victoria.

15

(11) A notice under sub-section (10)—

(a) must be in accordance with the regulations; and

(b) must state the period, being the prescribed period, within which any person may lodge objections with the Minister.

(12) A person may within the period stated in the notice lodge with the Minister a written objection to the granting of an application under this section.

20

(13) Before deciding on the application the Minister must consider all objections lodged within the period stated in the notice.

(14) On an application in accordance with this section and after complying with sub-section (13), the Minister may authorise the applicant to surrender land to the Crown or to transfer or convey it to the council of the municipal district in which the land is located, if the Minister is satisfied—

25

(a) that the land is no longer required for library purposes; and

(b) that it is in the public interest to grant the application; and

(c) the purposes for which the land may or must be used are not the subject of proceedings before or a subsisting order of a Court.

30

(15) If so authorised by the Minister, an eligible person may surrender land by transferring or conveying it to the Crown or transfer or convey land to a municipal council.

35

Transfers, conveyances and surrenders generally.

44. (1) On the transfer or conveyance of land to the Crown under this Part—

40

(a) any Order in Council reserving the land and any Crown grant of the land is revoked; and

(b) the land is deemed to be unalienated land of the Crown freed and discharged from all encumbrances, trusts, conditions, reservations, limitations, exceptions, estates or interests; and

5 (c) the trustees of the land immediately before its transfer or conveyance are, in respect of the land, discharged from all further liabilities under the trust.

10 (2) If land is transferred or conveyed to the Crown under this Part, the Governor in Council may grant the land to the council of the municipal district in which the land is located subject to any conditions, restrictions, limitations, reservations and exceptions that the Governor in Council determines.

(3) On the transfer or conveyance of land to a municipal council under this Part—

15 (a) the land is freed from all trusts, conditions, restrictions, limitations or provisions affecting the land except limitations as to depth; and

20 (b) the trustees of the land immediately before its transfer are, in respect of the land, discharged from all further liabilities under the trust.

(4) On production of a certificate signed by the Minister as to any authority to surrender, transfer or convey land under this Part, and on production of any other instrument that the Registrar-General or the Registrar of Titles requests—

25 (a) the Registrar-General must enter in the Register under the *Property Law Act* 1958 any memorials; and

(b) the Registrar of Titles must make any recordings in the Register under the *Transfer of Land Act* 1958—

that are necessary because of the operation of this section.

30 **No compensation payable.**

45. No compensation is payable by the Crown in respect of anything done under, or arising out of, this Part.

Power to demand and receive charges etc.

35 46. The trustees of every free library, reading room, mechanics' institute or trades' hall may demand, recover and receive all rents, fees, tolls and charges that are determined by the committee of management from any person coming on to land, or part of any land, held by or vested in the trustees, or into any building on that land.

Accounts and audit.

47. (1) The committee of management of every free library, reading room, mechanics' institute or trades' hall must ensure that there are kept proper accounts and records of the transactions and affairs of the committee under this Act.

5

(2) Before 30 September in each year, the committee must, in respect of the financial year ended on 30 June in that year, prepare an annual report containing—

(a) a report of its operations during the financial year; and

(b) financial statements for the financial year.

10

(3) The financial statements referred to in sub-section (2) (b) must be audited by an auditor and must be certified by the auditor and the treasurer of the free library, reading room, mechanics' institute or trades' hall.

Provision of Crown grant or trust instrument to prevail.

15

48. Except where otherwise expressly provided in this Part, where a provision of a Crown grant or trust instrument is inconsistent with a provision of this Part, the provision of the Crown grant or trust instrument prevails.

PART 5—MISCELLANEOUS

20

Legal deposit.

49. (1) A good copy of the whole of every new publication published in Victoria, other than a prescribed publication, must be deposited by or on behalf of the publisher in accordance with directions of the Council at a place or with a person determined by the Council within 2 months after the day on which the publication was first published.

25

(2) For the purposes of sub-section (1), a new publication includes—

(a) a publication published for the first time; and

(b) revised, corrected, enlarged and abridged editions and other editions differing in content from the original publication; and

30

(c) different forms or formats of publications; and

(d) reprints of publications.

(3) A copy of a publication which must be deposited under sub-section (1) must be delivered at the expense of the publisher and be clearly marked "Legal Deposit Copy".

35

(4) The Director must acknowledge receipt of a publication deposited under sub-section (1) within 14 days of delivery by notice in writing to the publisher or depositor.

(5) Acknowledgement under sub-section (4) is not necessary in respect of any numbered serial publication other than the first issue of the publication deposited.

5 (6) A publication deposited under this section must include any containers, wrapping material, notices, instructions or other material generally accompanying the publication.

10 (7) The Director or other officer authorised by the Council may recover in a court of competent jurisdiction as a debt due to the Council from a publisher who neglects to deposit a publication as required by this section—

(a) the value of the publication which ought to have been deposited; and

(b) a sum not exceeding \$200; and

(c) costs.

15 **Sale, disposal or exchange of object in State collection.**

50. (1) The Council must not sell or dispose of an object that is part of the State collection unless—

20 (a) the Council has resolved that retention of that object is unnecessary and inappropriate to the activities of the Council; and

(b) the Governor in Council has granted approval for that sale or disposal.

25 (2) The Council may exchange with a body which has objects or functions similar to those of the Council any duplicate material that is part of the State collection.

Disposal of unclaimed property.

30 51. (1) Subject to sub-section (2) and with the approval of the Governor in Council, the Council may retain, exchange, sell, lease or dispose of any property which, although not vested in it by or under this Act—

35 (a) has been submitted to or left with the Council with a view to its acceptance by the Council by way of gift or purchase or for valuation or for the giving of an opinion thereon by or on behalf of the Council or for consideration for the purpose of any prize or competition; and

(b) has remained in the possession or custody of the Council for a period of not less than 5 years; and

40 (c) after notice has been given under sub-section (2), has not been claimed by or on behalf of the person submitting or leaving the property or any other person claiming the property or any interest in it.

(2) Before seeking the approval of the Governor in Council to any retention, exchange, sale, lease or disposal under sub-section (1), the Council must give not less than 6 months notice of its intention to deal with the property—

- (a) by notice sent by certified mail to the person who submitted or left the property and addressed to the person at the person's last known residential or business address or, if the person has died, to his or her personal representative; or 5
- (b) by notice published in the *Government Gazette* and in a daily newspaper circulating generally throughout Victoria, if the name or residential address of the person who submitted or left the property is not known to the Council. 10

Council may make by-laws.

52. (1) The Council may make by-laws for or with respect to—

- (a) regulating or prohibiting admission to or removal from any building managed or controlled by the Council; and 15
- (b) the preservation, inspection, copying or lending of library material.

(2) The by-laws may impose penalties not exceeding 2 penalty units for a contravention of the by-laws. 20

Regulations.

53. (1) The Governor in Council may make regulations for or with respect to generally prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act. 25

(2) The regulations may impose penalties not exceeding 2 penalty units for a contravention of the regulations.

PART 6—REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

Repeals. 30

54. (1) The *Libraries Act* 1958 is repealed.

(2) The *Library Council of Victoria Act* 1965 is repealed.

Consequential amendments.

55. (1) In section 19 (4) of the *Crown Land (Reserves) Act* 1978 for “section 22 of the *Libraries Act* 1958” substitute “section 42 of the *Libraries Act* 1988”. 35

(2) In section 3 of the *Historic Buildings Act 1981*, in the definition of "Public authority" for "the Library Council of Victoria" substitute "the Council of the State Library of Victoria".

(3) In the Schedule to the *Ministry for the Arts Act 1972*—

- (a) for "*Libraries Act 1958*" substitute "*Libraries Act 1988*";
and
(b) omit "*Library Council of Victoria Act 1965*".

(4) The *Museums Act 1983* is amended as follows:

(a) In section 15 (3), for paragraphs (c) and (d) substitute—

- "(c) the President of the Council of the State Library of Victoria or the President's nominee;
(d) a member of the Council of the State Library of Victoria.";

(b) In section 34 (4), for "Library Council of Victoria" substitute "Council of the State Library of Victoria";

(c) In section 36 (2), for paragraph (b) substitute—

- "(b) the Council of the State Library of Victoria; or";

(d) In section 36 (3), in paragraph (b) for "Library Council of Victoria" substitute "Council of the State Library of Victoria".

(5) In section 21 (3) of the *Probate Duty Act 1962* for paragraph (c) substitute—

- "(c) the Council of the State Library of Victoria;".

(6) In section 14 of the *Property Law Act 1958*—

(a) in sub-section (10) for "the Library Council of Victoria for preservation in accordance with paragraph (o) of sub-section (1) of section 11 of the *Library Council of Victoria Act 1965*" substitute "the Council of the State Library of Victoria for preservation in accordance with section 18 (f) of the *Libraries Act 1988*";

(b) in sub-section (11) for "section 11 of the *Library Council of Victoria Act 1965*" substitute "section 18 of the *Libraries Act 1988*".

Transitional provision.

56. On the commencement of this section—

- (a) the Council becomes the successor in law of the Library Council of Victoria; and
(b) all real and personal property vested in the Library Council of Victoria is vested in the Council.

