

# Arts Institutions (Amendment) Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

- Clause 1 sets out the purposes of the Act.
- Clause 2 provides for the commencement of the various provisions of the Act.

### PART 2—LIBRARIES ACT 1988

- Clause 3 provides that in this Part the **Libraries Act 1988** is called the Principal Act.
- Clause 4 amends the purposes of the Principal Act.
- Clause 5 makes definitional changes in section 3 of the Principal Act.
- Clause 6 amends section 4 of the Principal Act as a consequence of the name change of the Council of the State Library of Victoria to the Library Board of Victoria.
- Clause 7 repeals Part 2 of the Principal Act which established the Libraries Board of Victoria.
- Clause 8 amends the heading to Part 3 of the Principal Act.
- Clause 9 amends section 16 of the Principal Act by changing the name of the Council of the State Library of Victoria to the Library Board of Victoria and makes consequential reference changes.
- Clause 10 repeals section 17 of the Principal Act detailing the objectives of the Board. Some of these objectives are incorporated in the functions of the Board, provided for in section 18 of the Principal Act.
- Clause 11 inserts additional functions in section 18 of the Principal Act to enable the Board to oversee cooperation in programs, exercise leadership and promote high standards, and provide advice to the Minister in regard to libraries and information services and organisations. In carrying out its functions, the Board must endeavour to contribute to the enrichment of the cultural, educational, social and economic life of the people of Victoria. Consequential name changes from Council to Board are also made.

- Clause 12 makes consequential name changes from Council to Board in section 19 of the Principal Act.
- Clause 13 makes a consequential name change from Council to Board in section 20 of the Principal Act.
- Clause 14 makes a consequential name change from Council to Board and omits the word "general" in section 21 of the Principal Act which provides that the Board is subject to the direction and control of the Minister.
- Clause 15 substitutes in section 22 of the Principal Act revised membership qualifications for the Library Board of Victoria, makes a consequential name change from Council to Board, and repeals obsolete sub-sections.
- Clause 16 amends section 23 of the Principal Act as a consequence of the name change of the Council of the State Library of Victoria to the Library Board of Victoria, and provides that the **Public Sector Management Act 1992** does not apply to the office of a member of the Board. It also provides that a member of the Board is entitled to be paid remuneration and allowances fixed by the Governor in Council, and repeals an obsolete sub-section.
- Clause 17 makes a consequential name change from the Council to the Board in section 24 of the Principal Act.
- Clause 18 amends section 25 of the Principal Act to provide that the President or, in his or her absence, a member elected by the members present must preside at meetings of the Board. It makes consequential name changes from Council to Board, and provides that the Board must meet on at least 6 occasions in each year.
- Clause 19 inserts a new section 25A in the Principal Act to enable the Board to pass resolutions without meetings.
- Clause 20 substitutes a new section 26 in the Principal Act to provide for conflicts of interest.
- Clause 21 substitutes a new section 27 in the Principal Act to provide for the establishment of committees by the Board.
- Clause 22 substitutes a new section 28 in the Principal Act to provide for delegations by the Board.
- Clause 23 subsequently substitutes in section 28(1)(b) of the Principal Act "Chief Executive Officer" for "Director". It is intended that the name change from Council of the State Library of Victoria to Library Board of Victoria will occur

prior to the staff transferring to employment by the Library Board of Victoria. Accordingly, as an interim measure, the Board's powers will be able to be delegated to the Director, State Library of Victoria. When the staff transfer occurs, those powers will be able to be delegated to the Chief Executive Officer, Library Board of Victoria.

- Clause 24 substitutes in section 29(1) of the Principal Act **Public Sector Management Act 1992** for **Public Service Act 1974**, makes name changes from Council to Board in sub-section 29(2), repeals sub-section 29(3), and substitutes a new sub-section 29(4) to provide for the appointment by the Board of a Chief Executive Officer of the Library Board of Victoria and makes consequential amendments. In addition as interim measure while the position of Director, State Library of Victoria remains, appointment will be subject to the **Public Sector Management Act** under sub-section 29(1).
- Clause 25 substitutes in section 30 of the Principal Act **Public Sector Management Act 1992** for **Public Service Act 1974**. This provision will apply until staff transfer to the employment of the Library Board of Victoria.
- Clause 26 substitutes a new section 30 in the Principal Act to provide for employment of staff by the Board. This provision will apply after the transfer of staff to the employment of the Library Board of Victoria.
- Clause 27 makes consequential name changes from Council to Board in section 31 of the Principal Act, and repeals an obsolete sub-section.
- Clause 28 substitutes a new section 32 in the Principal Act to confer on the Board borrowing and investment powers in accordance with the **Borrowing and Investment Powers Act 1987**.
- Clause 29 substitutes Board for further references in the Principal Act to Council as a consequence of the name change of the Council of the State Library of Victoria to the Library Board of Victoria, and in section 49 of the Principal Act substitutes "Chief Executive Officer" for "Director".
- Clause 30 inserts a new section 57 in the Principal Act to provide for the Minister to designate in writing the officers and employees of the public service who are employed in the administration of the Principal Act and who are to become employees of the Library Board of Victoria.
- Clause 31 inserts a new section 58 in the Principal Act to abolish the Libraries Board of Victoria and provide for its final report of operations.

Clause 32 inserts a new section 59 in the Principal Act to provide that the Library Board of Victoria is to be taken as the same body as the Council of the State Library of Victoria in spite of any changes to its name and structure, and a reference to the Council in any document is to be taken to refer to the Board. It also provides for a member of the Council to continue to hold office as a member of the Board on the same terms and conditions for the remainder of the current term.

Clause 33 inserts in the Principal Act new sections 60 and 61.

Section 60 provides that the Director of the State Library of Victoria is deemed to be appointed by the Board as the Chief Executive Officer of the Library Board of Victoria.

Section 61 provides for the transfer of staff to the employ of the Board, for remuneration, terms and conditions, long service and other leave entitlements. Officers within the meaning of the **State Superannuation Act 1988** or a corresponding previous enactment continue, subject to that Act, to be officers within the meaning of that Act while serving with the Board. Provision is also made for payment from the Consolidated Fund for entitlements to pay in lieu of long service leave attributable to service with the public service.

### **PART 3—MUSEUMS ACT 1983**

Clause 34 provides that in this Part the **Museums Act 1983** is called the Principal Act.

Clause 35 amends section 2 of the Principal Act by omitting the definition of "Victorian Museums Guidelines".

Clause 36 repeals Part II of the Principal Act which established the Museums Advisory Board.

Clause 37 makes definitional changes in section 9 of the Principal Act.

Clause 38 amends the heading to Division 2 of Part III of the Principal Act.

Clause 39 amends section 10 of the Principal Act by changing the name of the Council of the Museum of Victoria to the Museums Board of Victoria and makes consequential reference changes.

Clause 40 makes consequential name changes from Council to Board in section 11 of the Principal Act. It amends the qualification for membership of the Board in sub-section (1), substitutes a new sub-section (2) and amends sub-section (3) both relating to the appointment of the President of the Board. It provides in

sub-section (11) that the **Public Sector Management Act 1992** does not apply to the office of a member of the Board, and in sub-section (12) that a member of the Board is entitled to be paid remuneration and allowances fixed by the Governor in Council. It also repeals an obsolete sub-section.

- Clause 41 makes a consequential name change from Council to Board in section 11A of the Principal Act.
- Clause 42 amends section 12 of the Principal Act to provide that the Board must meet on at least 6 occasions in each year, and that the President or, in his or her absence, a member elected by the members present must preside at meetings of the Board. It also makes consequential name changes from Council to Board.
- Clause 43 inserts a new section 12A in the Principal Act to enable the Board to pass resolutions without meetings.
- Clause 44 substitutes a new section 13 in the Principal Act providing for conflicts of interest.
- Clause 45 makes consequential name changes from Council to Board in section 14 of the Principal Act.
- Clause 46 substitutes a new section 15 in the Principal Act to provide for the establishment of committees by the Board.
- Clause 47 substitutes a new section 16 in the Principal Act to provide for delegation by the Board.
- Clause 48 subsequently substitutes in section 16(1)(b) of the Principal Act "Chief Executive Officer" for "Director". It is intended that the name change from Council of the Museum of Victoria to Museums Board of Victoria will occur prior to the staff transferring to employment by the Museums Board of Victoria. Accordingly, as an interim measure, the Board's powers will be able to be delegated to the Director, Museum of Victoria. When the staff transfer occurs, those powers will be able to be delegated to the Chief Executive Officer, Museums Board of Victoria.
- Clause 49 amends section 17 in the Principal Act by substituting Chief Executive Officer of the Museums Board of Victoria for Director of the Museum of Victoria and deletes sub-section (1)(a). It also substitutes new provisions for the appointment of the Chief Executive Officer by the Board, and makes consequential name changes from Council to Board.
- Clause 50 repeals section 18 of the Principal Act.

- Clause 51 repeals section 19 of the Principal Act.
- Clause 52 substitutes a new section 20 in the Principal Act to provide for employment of staff by the Board.
- Clause 53 makes consequential name changes from Council to Board in section 21 of the Principal Act.
- Clause 54 substitutes a new heading to Division 4 of Part III of the Principal Act.
- Clause 55 substitutes for section 22 of the Principal Act a new section 22 to provide that the Board represents the Crown, and a new section 22A to provide that the Board is subject to the direction and control of the Minister.
- Clause 56 amends the functions of the Board in section 23 of the Principal Act and makes consequential name changes from Council to Board.
- Clause 57 amends the powers of the Board in section 24 of the Principal Act and makes consequential name changes from Council to Board.
- Clause 58 makes consequential name changes from Council to Board in section 25 of the Principal Act.
- Clause 59 makes consequential name changes from Council to Board in section 26 of the Principal Act, and substitutes for sub-section (5) a new interpretation of "department".
- Clause 60 makes consequential name changes from Council to Board in section 27 of the Principal Act.
- Clause 61 makes consequential name changes from Council to Board in section 28 of the Principal Act, and repeals an obsolete sub-section.
- Clause 62 substitutes a new section 29 in the Principal Act to confer on the Board borrowing and investment powers in accordance with the **Borrowing and Investment Powers Act 1987**.
- Clause 63 substitutes for further references to Council of the State Library of Victoria and Council in the Principal Act Library Board of Victoria and Board respectively.
- Clause 64 inserts a new Division 10 in Part 3 of the Principal Act to provide for further transitional provisions. It also inserts a new section 45 in the Principal Act to provide for the Minister to designate in writing the officers and employees of the public service who are employed in the administration of the Principal Act who are to become employees of the Museums Board of Victoria.

Clause 65 inserts a new section 46 in the Principal Act to abolish the Museums Advisory Board and provide for its final report of operations.

Clause 66 inserts a new section 47 in the Principal Act to provide that the Museums Board of Victoria is to be taken as the same body as the Council of the Museum of Victoria in spite of any changes to its name and structure, and a reference to the Council in any document is to be taken to refer to the Board. It also provides for a member of the Council to continue to hold office as a member of the Board on the same terms and conditions for the remainder of the current term.

Clause 67 inserts new sections 48 and 49 in the Principal Act.

Section 48 provides that the Director of the Museum of Victoria is deemed to be appointed by the Board as the Chief Executive Officer of the Museums Board of Victoria.

Section 49 provides for the transfer of staff to the employ of the Board, for remuneration, terms and conditions, long service and other leave entitlements. Officers within the meaning of the **State Superannuation Act 1988** or a corresponding previous enactment continue, subject to that Act, to be officers within the meaning of that Act while serving with the Board. Provision is also made for payment from the Consolidated Fund for entitlements to pay in lieu of long service leave attributable to service with the public service.

#### **PART 4—NATIONAL GALLERY OF VICTORIA ACT 1966**

Clause 68 provides that in this Part the **National Gallery of Victoria Act 1966** is called the Principal Act.

Clause 69 amends section 4 of the Principal Act by omitting the definition of "country art gallery", and by inserting definitions of "Director" and "regional art gallery".

Clause 70 omits the word "general" from section 5B of the Principal Act which provides that the Council of Trustees of the National Gallery of Victoria is subject to the direction and control of the Minister.

Clause 71 amends the qualifications for membership of the Council in section 6 of the Principal Act. It also provides that the **Public Sector Management Act 1992** does not apply to the office of a member of the Council.

Clause 72 inserts a new section 7A in the Principal Act to provide that Council may act despite a vacancy or a defect or irregularity in or in connection with the appointment of a member.

- Clause 73 amends section 8 of the Principal Act to provide that the President or, in his or her absence, a member elected by the members present must preside at meetings of the Council. It also provides that the Council must meet on at least 6 occasions in each year, and repeals an obsolete sub-section
- Clause 74 inserts new sections 9A and 9B in the Principal Act to provide for resolutions without meetings and conflicts of interest.
- Clause 75 substitutes a new section 10 in the Principal Act to provide that a member of the Council is entitled to be paid remuneration and allowances fixed by the Governor in Council.
- Clause 76 repeals an obsolete sub-section in section 11 of the Principal Act.
- Clause 77 inserts new sections 11A and 11B in the Principal Act to provide for the Council to establish committees and to allow Council to delegate functions and powers.
- Clause 78 substitutes for section 12 of the Principal Act new sections 12 and 12A to provide for the appointment of the Director of the National Gallery of Victoria and staff by the Council.
- Clause 79 amends the functions of the Council in section 13 of the Principal Act.
- Clause 80 inserts a new section 18AA in the Principal Act to confer on Council borrowing and investment powers in accordance with the **Borrowing and Investment Powers Act 1987**.
- Clause 81 inserts a new Division 4 in Part II of the Principal Act to provide for further transitional provisions. It also inserts a new section 22 in the Principal Act to provide for the Minister to designate in writing the officers and employees of the public service who are employed in the administration of the Principal Act and who are to become employees of the Council of Trustees of the National Gallery of Victoria.
- Clause 82 inserts in the Principal Act two transitional provisions as new sections 23 and 24.

Section 23 provides that the Director of the National Gallery of Victoria is deemed to be appointed by the Council as the Director.

Section 24 provides for the transfer of staff to the employ of the Council, for remuneration, terms and conditions, long service and other leave entitlements. Officers within the meaning of the **State Superannuation Act 1988** or a corresponding previous enactment continue, subject to that Act, to be officers



within the meaning of that Act while serving with the Council. Provision is also made for payment from the Consolidated Fund for entitlements to pay in lieu of long service leave attributable to service with the public service.

### **PART 5—MINISTRY FOR THE ARTS ACT 1972**

- Clause 83 provides that in this Part the **Ministry for the Arts Act 1972** is called the Principal Act.
- Clause 84 amends section 11(1) of the Principal Act to enable any number of members to be appointed to the Victorian Council of the Arts. Section 11(4) is amended to allow the Governor in Council to fix allowances and fees for members of the Council, and an obsolete provision is omitted from section 13.

### **PART 6—PUBLIC RECORDS ACT 1973**

- Clause 85 provides that in this Part the **Public Records Act 1973** is called the Principal Act.
- Clause 86 amends the definitions of "public office" and "public record" in section 2(1) of the Principal Act.
- Clause 87 inserts new sections 2A and 2B in the Principal Act to provide for a person or body who is no longer a public office, and for records of a body that ceases to be a public office.

### **PART 7—OTHER AMENDMENTS**

- Clause 88 inserts in Schedule 1 to the **Borrowing and Investment Powers Act 1987** references to the Council of Trustees of the National Gallery of Victoria, Library Board of Victoria, and Museums Board of Victoria.
- Clause 89 makes a consequential name change from Council of the Museum of Victoria to Museums Board of Victoria in section 6(e) of the **Melbourne Exhibition Centre Act 1994**.
- Clause 90 makes a consequential name change from Council of the State Library of Victoria to Library Board of Victoria in section 21(3)(c) of the **Probate Duty Act 1962**.
- Clause 91 omits from Schedule 2 of the **Public Sector Management Act 1992** the entry of the Director of the Museum of Victoria.

