

# Libraries Bill

## EXPLANATORY MEMORANDUM

### Outline

The purposes of the Bill 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.

The Libraries Board of Victoria will be a body appointed by the Minister to provide advice and information on matters concerning libraries and information organisations, and to identify, develop and promote opportunities to bring about a more comprehensive and improved library and information service in Victoria.

The Bill repeals the *Library Council of Victoria Act 1965* which constituted the Library Council of Victoria to manage and control the State Library of Victoria, and to provide public library wide policy advice.

In place of the Library Council of Victoria, the Bill constitutes the Council of the State Library of Victoria to be custodian of the State collection of library material and, amongst other things, to ensure that it is managed, operated, accommodated, maintained, preserved and developed in an efficient and economic manner.

The Bill repeals the *Libraries Act 1958*, which provides for land which is granted or vested to trustees in trust as a site for a free library, reading room, mechanics' institute or trades hall, and for the surrender and transfer of that land and for other matters relating to those trusts.

These library purposes trust matters are provided for in the Bill in a modernised format and the provisions relating to the transfer or surrender of certain land used for library purposes have been streamlined to overcome previous difficulties.

### Notes on Clauses

#### PART 1—PRELIMINARY

*Clause 1* describes the purpose of the Act.

*Clause 2* provides for the Act to come into operation on 1 July 1988.

*Clause 3* defines various terms used in the Act.

*Clause 4* indicates the composition of the State collection of library material.

#### PART 2—LIBRARIES BOARD OF VICTORIA

*Clause 5* establishes the Libraries Board of Victoria.

*Clause 6* defines the objectives of the Libraries Board.

*Clause 7* sets out the functions of the Libraries Board.

*Clause 8* provides that the Libraries Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

*Clause 9* constitutes the membership of the Libraries Board and provides that the members shall be appointed by the Minister.

*Clause 10* sets out the terms and conditions of appointment of members, determines when a vacancy of office occurs and provides for the removal of members from office, resignations and the payment of allowances for travelling and personal expenses.

*Clause 11* provides that membership is not an office or place of profit under the Crown which would prevent the member sitting or voting as a member of the Legislative Council or Legislative Assembly.

*Clause 12* provides for the proceedings at meetings.

*Clause 13* provides for the establishment of advisory groups, their functions, membership and proceedings.

*Clause 14* provides for the delegation of powers or functions by the Libraries Board.

*Clause 15* requires that the Libraries Board prepare an annual report of its operations and that such a report received by the Minister shall be tabled in each House of the Parliament.

### **PART 3—COUNCIL OF THE STATE LIBRARY OF VICTORIA**

*Clause 16* establishes the Council of the State Library of Victoria as a body corporate.

*Clause 17* defines the objectives of the Council.

*Clause 18* sets out the functions of the Council.

*Clause 19* provides that the Council has power to do all things necessary in the performance of its functions.

*Clause 20* provides that in performing its functions and exercising its powers, the Council represents the Crown.

*Clause 21* provides that the Council is subject to the general direction and control of the Minister.

*Clause 22* provides that the Council shall consist of nine members appointed by the Governor in Council on the recommendation of the Minister and identifies certain categories of members.

*Clause 23* sets out the terms and conditions of appointment of members.

*Clause 24* provides that membership is not an office or place of profit under the Crown which would prevent the member sitting or voting as a member of the Legislative Council or Legislative Assembly.

*Clause 25* provides for proceedings at meetings.

*Clause 26* requires members of Council to declare any interest in contracts before Council and any instances of possible conflict of interest with a member's duties or interests as a member.

*Clause 27* enables Council to form committees, and sets out the functions and membership of committees.

*Clause 28* provides for the delegation of powers or functions by Council.

*Clause 29* provides for the appointment of a Director of the State Library and defines the Director's role.

*Clause 30* provides for the appointment of other officers and employees to carry the Act into effect.

*Clause 31* enables the Council to establish and keep bank accounts into which all moneys, except those of a special trust, must be paid and from which all payments shall be made.

*Clause 32* sets out the borrowing powers of the Council which are subject to such conditions as the Treasurer determines. The due satisfaction of accounts payable by the Council is guaranteed by the Government of Victoria. Any sum required by the Treasurer to fulfil a guarantee shall be paid from the Consolidated Fund and any sum received or recovered by the Treasurer in respect of sums paid by the Treasurer shall be paid into the Consolidated Fund.

*Clause 33* requires Council to keep proper accounts and records of its transactions and affairs and such other records as sufficiently explain its financial position.

*Clause 34* requires Council to prepare and submit to the Minister an annual report of its operations, including financial statements, for the financial year. The clause also provides for matters relating to content and format of the report and the financial statements and for the tabling of the report in both Houses of Parliament.

*Clause 35* requires that the financial statements of Council be audited by the Auditor-General and that such costs and expenses of the audit shall be paid by Council to the Consolidated Fund.

*Clause 36* requires Council to pay annually to the Treasurer for payment to the Consolidated Fund an amount determined by the Treasurer after consultation with the Minister as a contribution to offset capital costs previously provided from the Consolidated Fund.

#### **PART 4—LIBRARY PURPOSES TRUSTS**

*Clause 37* enables trustees of library land to lease that land or a part of it, to any person, if the land is not immediately required for library purposes. In addition, the clause sets terms for leases and determines the use of rent received.

*Clause 38* enables trustees of library land to borrow money, with the approval of the Minister, to finance the erection of buildings for library purposes, sets down security conditions for borrowing such money, and provides that money must be applied for the purpose so borrowed.

*Clause 39* is a default provision relating to borrowed moneys and interest payable thereon. It provides that a receiver may be appointed by the Supreme Court and details the role and functions of that receiver.

*Clause 40* provides that a receipt issued by trustees of library land in relation to rents is sufficient discharge to a lessee, and that a person lending money to trustees need not inquire as to the application of the money and is not liable for the loss or misapplication of any money so lent.

*Clause 41* enables the trustees of library land, with the approval of the Minister, to make regulations covering certain matters.

*Clause 42* provides that the trustees of library land and the council of the local municipality may jointly apply to the Minister for authority to surrender the land to the Crown. The Minister may authorise the surrender of the land if he is satisfied the land is no longer required for library purposes.

*Clause 43* provides for the transfer to the municipality or surrender to the Crown of specified land held in trust that has been declared by the Minister as land that has been used for library purposes and applicable to this clause. The clause determines who may apply for a Ministerial declaration or an authority to surrender or transfer the land, and sets out the procedures to be followed before the land is ultimately transferred or surrendered.

*Clause 44* provides that in cases of transfers, conveyances and surrenders to the Crown generally under this Part, any reservation order or Crown grant of the land is revoked. The land is deemed to be unalienated land of the Crown, freed and discharged, and any former trustees are discharged from all further liabilities. Furthermore, land transferred or conveyed to the Crown may be granted by the Governor in Council to the council of the municipality in which it is located subject to any conditions etc. determined by the Governor in Council. The land so transferred or conveyed is freed of all trusts, conditions, restrictions etc. and former trustees of the land are discharged of further liabilities. Certain consequential actions are required of the Registrar-General and the Registrar of Titles by this clause.

*Clause 45* provides that no compensation is payable by the Crown in respect of anything done under or arising out of this Part.

*Clause 46* provides a power for trustees of free libraries, reading rooms etc. to demand and receive rents, fees, tolls and other charges.

*Clause 47* provides that the Committee of Management of every free library, reading room etc. must ensure that proper accounts and records of its transactions and affairs are kept and that an annual report including audited financial statements be prepared.

*Clause 48* provides that except where otherwise expressly provided, where there are inconsistencies between the provisions of a Crown grant or trust instrument and this Part, the provision of the Crown grant or trust instrument shall prevail.

#### **PART 5—MISCELLANEOUS**

*Clause 49* is a legal deposit provision which requires that a copy of every new publication published in Victoria must be deposited by or on behalf of the publisher in accordance with directions determined by Council within two months after the day on which the publication was first published. The clause indicates certain relevant procedures to be followed and provides that where a publisher neglects to deposit a publication the Director or other officer authorised by Council may recover in a court of competent jurisdiction a debt due to the Council.

*Clause 50* stipulates the conditions for sale, disposal or exchange of an object that is part of the State Collection.

*Clause 51* provides for the retention or disposal of unclaimed property and establishes the procedures to be followed.

*Clause 52* empowers the Council to make by-laws in respect of admission to or removal from any building managed or controlled by Council, preservation, inspections, copying or lending of library material and provides that the by-laws may impose penalties.

*Clause 53* empowers the Governor in Council to make regulations relating to matters permitted by this Act and provides that the regulations may impose penalties.

#### **PART 6—REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS**

*Clause 54* repeals the *Libraries Act 1958* and the *Library Council of Victoria Act 1965*.

*Clause 55* makes consequential amendments to the—

*Crown Land (Reserves) Act 1978*

*Historic Buildings Act 1981*

*Ministry for the Arts Act 1972*

*Museums Act 1983*

*Probate Duty Act 1962, and*

*Property Law Act 1958.*

*Clause 56 provides that the Council of the State Library of Victoria becomes the successor in law of the Library Council of Victoria and that all real and personal property vested in the Library Council of Victoria is vested in the Council of the State Library of Victoria.*

