

Miscellaneous Acts (Omnibus No. 3) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 sets out the purpose of the Act.
- Clause 2 is the commencement provision.

PART 2—ACCIDENT COMPENSATION ACT 1985

- Clause 3 amends section 24(2)(b) of the **Accident Compensation Act 1985** so as to increase the maximum number of part-time Directors who may be appointed to the Board of Management of the Victorian WorkCover Authority from 6 to 7.

PART 3—ACCIDENT COMPENSATION ACT (FURTHER AMENDMENT) ACT 1996

- Clause 4 amends section 2(4) of the **Accident Compensation (Further Amendment) Act 1996** so as to provide that sections 14 and 19 of that Act are to commence whenever they are proclaimed to commence. Currently, these provisions, which provide for the payment of certain lump sum compensation under the **Accident Compensation Act 1985** by instalments, are subject to automatic commencement on 1 July 1997 if they are not proclaimed to commence before that date.

PART 4—BORROWING AND INVESTMENT POWERS ACT 1987

- Clause 5 provides that the **Borrowing and Investment Powers Act 1987** is the Principal Act for the purposes of Part 4.
- Clause 6 substitutes section 17A(2) of the Principal Act to correct a deficiency in that sub-section. The substituted sub-section empowers the Governor in Council, by Order published in the Government Gazette, to declare that sections of the **Borrowing and Investment Powers Act 1987** specified in the Order apply to a water authority specified in the Order.
- Clause 7 inserts a new section 17B in the Principal Act which defines "public authority" for the purposes of the section and empowers the Governor in Council, by Order published in the Government Gazette, to declare that sections of the

Borrowing and Investment Powers Act 1987 specified in the Order apply to a public authority specified in the Order.

Clause 8 is statute law revision.

PART 5—CANCER ACT 1958

Clause 9 provides that in this Part the **Cancer Act 1958** is called the Principal Act.

Clause 10 inserts a new section 60(1A) and amends section 60(3) of the Principal Act, the effect of which is to require the person in charge of an organisation that maintains a prescribed register to, within the prescribed time and in the prescribed form, report to the Council on any person whose information is included in that prescribed register and who, to the knowledge of the person in charge of the organisation, is suffering or commences to suffer from cancer. A person who is required to report to the Council under new section 60(1A) and fails to do so within the prescribed time, or who knowingly includes in a report under new section 60(1A) any details which are false or misleading, shall be guilty of an offence against the Principal Act.

Clause 11 amends the penalty for breach of section 61(1) by substituting "10 penalty units" for "\$250".

Clause 12 inserts new sections 61A and 61B into the Principal Act. The effect of inserting new section 61A(1) is that, despite section 61 of the Principal Act, a person to whom that section applies may, for the purposes of medical research or the administration of cancer related public health programs, give information acquired by the Council pursuant to section 60 of the Principal Act if:

- the use to which that information will be put and any research methodology to be used in the medical research or administration of the programs has been approved, having regard to the NHMRC guidelines, by an ethics committee established by the Council; and
- the giving of that information does not conflict with any prescribed requirements.

New section 61A(2) provides that a person who receives information pursuant to new section 61A(1) must not give to any other person, whether directly or indirectly, any information so received unless the giving of the information has been approved by the ethics committee referred to in new section 61A(1) and does not conflict with any prescribed requirements. A penalty of 50 penalty units attaches to new section 61A(2).

New section 61A(3) defines "*NHMRC guidelines*" to mean the document titled "Aspects of Privacy in Medical Research: An information paper and guidelines for the protection of privacy in the conduct of medical research" endorsed by the National Health and Medical Research Council Executive Committee, June 1995 and includes any subsequent amendment to that document or any superseding document prepared or endorsed by the National Health and Medical Research Council which covers the same subject matter.

The effect of inserting a new section 61B(1) is that, despite section 61 of the Principal Act, for the purposes of clarifying the accuracy of information provided from the Council to an organisation that maintains a prescribed register under new section 61A, a person to whom section 61 applies may provide information to that organisation in respect of a person who, according to reports submitted to the Council pursuant to section 60, is suffering or commences to suffer from cancer.

The effect of inserting a new section 61B(2) is that, despite section 62(6) of the Principal Act, for the purposes of clarifying the accuracy of information provided to the Council from an organisation that maintains a prescribed register under new section 60(1A), a person to whom section 62(6) applies may provide information on that register to the Council in respect of a person who, to the knowledge of the person in charge of that organisation, is suffering or commences to suffer from cancer.

Clause 13 amends section 62 of the Principal Act, the effect of which is, for the purposes of section 62, to make it a function of an organisation that maintains a prescribed register to report to the Council in accordance with new section 60(1A). The effect of the amendments to section 62 of the Principal Act is also to add the performance of the function of an organisation that maintains a prescribed register of reporting to the Council in accordance with new section 60(1A) to the exceptions from the prohibition contained in section 62(6) against the disclosure of information on a prescribed register that identifies any person.

PART 6—DRIED FRUITS ACT 1958

Clause 14 provides that in this Part, the Principal Act is the **Dried Fruits Act 1958**.

Clause 15 provides for an amendment to section 5(3)(a) of the Act, to remove the requirement that the Chairman of the Dried Fruits Board must be an officer of the Department of Agriculture.

Clause 16 provides for an amendment to section 15(1) of the Act, to change the reporting date of the estimate of probable expenditure of the Dried Fruits Board.

Clause 17 provides for an amendment to section 16 of the Act, to provide for the Dried Fruits Fund to be maintained by the Dried Fruits Board rather than the Treasurer and for that fund to be invested in such manner as the Treasurer authorises.

PART 7—MELBOURNE AND METROPOLITAN BOARD OF WORKS ACT 1958

Clause 18 amends the **Melbourne and Metropolitan Board of Works Act 1958**.

- in section 239 by inserting words that land vested in or owned by a declared public statutory body used exclusively as public open space or as a park will remain exempt.
- in section 239A by inserting:
 - sub-section (1A) to make it clear that the land vested in or owned by a declared public statutory body is rateable land for the purposes of this section even if the land is not rateable within the meaning of the **Local Government Act 1989**;
 - sub-section (1B) to permit an Order by the Governor in Council to declare when a public statutory body, which includes a significant commercial government business enterprise, is to be liable for water service charges;
 - sub-sections (1C) and (1D) to allow the Treasurer, after consultation with the Minister responsible for a declared public statutory body, to give his/her consent to allow the declared public statutory body and the Board to agree on an amount in lieu of the rate payable or for the Treasurer to determine an amount if the parties cannot agree;
 - sub-section (1E) to allow the Board to apply to the Treasurer to seek his approval under sub-section (1C).

PART 8—PARLIAMENTARY OFFICERS ACT 1975

Clause 19 amends a number of provisions in the **Parliamentary Officers Act 1975** to alter:

the references to the department of the House Committee to the department of Parliamentary Services; and

the references to the Secretary of the department of the House Committee to the Secretary of the department of Parliamentary Services.

The clause also:

divides the Parliamentary Officers Act into Parts;

amends the definition of "officers of the Parliament" to limit the scope of that form of employment to officers employed under Part 2; and

provides that department of Parliamentary Services is the same body as the department of the House Committee as existed before the commencement of the amending provisions.

Clause 20 introduces a new Part 3 into the **Parliamentary Officers Act 1975** to:

enable the Presiding Officers, acting jointly, to employ electorate officers on the nomination of the relevant member;

provide that the employment of an electorate officer;

may be terminated in accordance with the employment agreement; and

is terminated if the member of Parliament to whom the officer was appointed dies or ceases to be a member unless;

the electorate officer is employed to assist another member as an electorate officer within four weeks, or such longer period as the Presiding Officers determine, following the member's death or date of ceasing to be a member; or

the Presiding Officers extend the term of employment;

enable the Presiding Officers to delegate their powers under the new Part to the Secretary of the department of Parliamentary Services;

deem existing electorate offices to be employed under the new Part.

PART 9—PHARMACISTS ACT 1974

Clause 21 amends sections 21(5) and 24(2) of the **Pharmacists Act 1974** by inserting ", private hospital or privately-operated hospital" after "registered funded agency" in each of these sections. The effect of this is to allow a private hospital or privately-operated hospital, within the meaning of the **Health**

Services Act 1988 and while it is acting in accordance with that Act and the **Pharmacists Act 1974**, to own or have a proprietary or pecuniary interest in a pharmacy practice or to practice as or hold itself out as a pharmacist.

PART 10—PLANT HEALTH AND PLANT PRODUCTS ACT 1995

- Clause 22 provides that in this Part, the Principal Act is the **Plant Health and Plant Products Act 1995**.
- Clause 23 inserts new definitions.
- Clause 24 is a consequential amendment to section 6(3) of the Principal Act.
- Clause 25 amends section 12 of the Principal Act by providing that the Secretary may give an owner or occupier of land a notice requiring that person to control or eradicate diseases or pests.
- Clause 26 amends section 24(2) of the Principal Act by providing that the Minister may make an order prohibiting or restricting importation from an area that the Secretary reasonably suspects is affected by an exotic disease or pest. An order may require a plant health certificate or plant health declaration to accompany the plants, plant products, used agricultural equipment, used packages or soil referred to in the order stating that they have been tested or treated in the manner required by the order and providing a description of the tests or treatment.
- Clause 27 amends section 44(1) of the Principal Act by excepting an inspection agent from the delegation powers of the Minister.
- Clause 28 amends section 45 of the Principal Act by excepting an inspection agent from the delegation powers of the Secretary.
- Clause 29 amends section 46 of the Principal Act by excepting inspection fees payable to an approved inspection service from the fees and charges fixed by the Minister.
- Clause 30 amends section 47(2) of the Principal Act by excepting an inspection agent from the provision protecting persons assisting an inspector.
- Clause 31 amends section 49(1) of the Principal Act by extending application of the section to failure to comply with a notice under the Act.
- Clause 32 amends section 52(1)(h) by including in the general powers of inspectors, the taking of specimens from plants, plant products or pests.

Clause 33 inserts after section 51 of the Principal Act a new Division 1A relating to approved inspection services as follows—

Proposed section 51A provides for the Secretary to approve a person or body to be an approved inspection service and sets out the functions of an approved inspection service.

Proposed section 51B provides for agreements between the Secretary and approved inspection services and sets out matters to be contained in those agreements.

Proposed section 51C provides that the operation of approved inspection services does not affect the exercise of powers, functions and duties of employed or appointed inspectors.

Proposed section 51D sets out the powers and duties of inspection agents of an approved inspection service.

Proposed section 51E provides identification requirements for inspection agents.

Proposed section 51F provides for the charging of fees by an approved inspection service.

Proposed section 51G provides that the **Freedom of Information Act 1982** applies to an approved inspection service.

Proposed section 51H provides that the **Ombudsman Act 1973** applies to an approved inspection service.

Clause 34 provides for statute law revision in the Principal Act.

PART 11—STATE OWNED ENTERPRISES ACT 1992

Clause 35 inserts a new section 14A in the **State Owned Enterprises Act 1992** which provides that a State body has such powers under the **Borrowing and Investment Powers Act 1987** as are conferred on it by Order under section 17B of that Act.

Clause 36 inserts a new section, section 88B, in the **State Owned Enterprises Act 1992** to allow government business enterprises that are declared business enterprises liable for the payment of local government rate equivalents to the State on properties (other than public open space or park) that are not rateable under the **Local Government Act 1989** or any other Act.

- sub-section 88B(1) makes it clear that a declared business enterprise owning land, other than public open space or park, that are not rateable under the **Local Government Act 1989** or any other Act must pay a determined amount to the Treasurer in such manner and at such times as he/she determines;
- sub-section 88B(2) makes it clear that the amount determined by the Treasurer as payable by the declared business enterprise should not exceed the amount that would have been payable had the business enterprise been liable for payment of local government rates;
- sub-section 88B(3) allows the declared business enterprise to request the Treasurer to review the amount determined;
- sub-section 88B(4) makes it clear that the declared business enterprise is liable for payment of all expenses in the event the Treasurer decides to review the amount determined as payable by the declared business enterprise;
- sub-section 88B(5) provides for a refund from the Treasurer in the event of an adjustment to the determined amount in favour of the declared business enterprise;
- sub-section 88B(6) allows the Treasurer to delegate (other than the power of delegation) his powers under this section to any person responsible for the administration of this section;
- sub-section 88B(7) makes it clear that any refunds payable by the Treasurer under this section can be appropriated from the Consolidated Fund;
- sub-section 88B(8) makes it clear that a statutory corporation may by Order of the Governor in Council be declared to become liable for the payment of local government rate equivalents to the State;
- sub-section 88B(9) defines a "declared business enterprise" to mean a statutory corporation for the purposes of this section.

PART 12—WATER INDUSTRY ACT 1994

Clause 37 amends the **Water Industry Act 1994**.

in section 25(2)(a) by inserting words to make it clear that a public statutory body that is exempted from water service charges can become

liable for water service charges. Land vested in or owned by a declared public statutory body used exclusively as public open space or as a park will remain exempt;

in section 25 by inserting sub-section (2A) to permit an Order by the Governor in Council to declare when a public statutory body, which includes a significant commercial government business enterprise, is to be liable for water service charges.

Clause 38 amends the *Water Industry Act 1994*.

in section 139(2) by inserting words to make it clear that a public statutory body that is exempted from Melbourne Park and Waterway (MPW) rates can become liable for MPW rates. Land vested in or owned by a declared public statutory body used exclusively as public open space or as a park will remain exempt;

in section 139 by inserting:

- sub-section (2A) to permit an Order by the Governor in Council to declare when a public statutory body, which includes a significant commercial government business enterprise, is to be liable for MPW rates;
- sub-section (3D) to allow Melbourne Parks and Waterways to levy a rate on the basis of a value determined from time to time;
- sub-section (3E) to make it clear that the value determined under sub-section (3D) should not be greater than the value determined by reference to the net annual value;
- sub-sections (4A) and (4B) to allow the Treasurer, after consultation with the Minister responsible for a declared public statutory body, to give his/her consent to allow the declared public statutory body and Melbourne Parks and Waterways to agree on an amount in lieu of the rate payable or for the Treasurer to determine an amount if the parties cannot agree;
- sub-section (4C) to allow Melbourne Parks and Waterways to apply to the Treasurer to seek his approval under sub-section (4A).

PART 13—ZOOLOGICAL PARKS AND GARDENS ACT 1995

- Clause 39 provides for the substitution of a new plan of land at Healesville in Part 3 of Schedule 1 to the **Zoological Parks and Gardens Act 1995**.
- Clause 40 provides for statute law revision in section 52 of the **Zoological Parks and Gardens Act 1995**.