

## Port Services Bill

### EXPLANATORY MEMORANDUM

#### BACKGROUND

The Port Services Bill establishes two new statutory authorities, Melbourne Port Corporation (“MPC”) and Victorian Channels Authority (“VCA”). MPC will carry on the business of managing Crown land which is currently vested in the Port of Melbourne Authority (“PMA”). VCA will be responsible for establishing, dredging and maintaining channels in certain waters in Port Phillip, Portland Bay and Westernport, as well as directing and controlling the movement of vessels moving to and from the ports of Melbourne, Geelong, Portland and Hastings, and being responsible for the installation and maintenance of navigation aids for navigation in those waters. In the case of Portland and Hastings, VCA is likely to enter into arrangements with channel operators who will perform VCA’s functions in those waters.

The Bill also provides for the economic regulation of certain port services, providing for price regulation in the form of Pricing Orders administered by the Office of the Regulator-General until 30 June 2000, and following that, by the Office of the Regulator-General under its general legislation. Access to certain channels is also provided for. Certain port charges are also given a statutory basis.

The Bill makes provision for licensed harbour masters both in the ports of Melbourne, Geelong, Portland and Hastings, as well as, where required by the Marine Board, certain other State waters.

To enable the sales of the ports of Geelong, Portland and Hastings, the Bill provides for the amendment of the existing Port Authority Acts. It also makes provision for Crown grants to the port authorities of certain lands. As well there is provision for the transfer of certain property, rights and liabilities of the port authorities.

The Bill also provides for marine pollution and the handling of dangerous goods by amending the **Marine Act 1958**, the **Pollution of Waters by Oils and Noxious Substances Act 1986** and the **Dangerous Goods Act 1985**.

The Bill consists of 14 parts:

*Part 1* of the Bill states its purpose, provides for its commencement and sets out definitions.

*Part 2* of the Bill establishes the Melbourne Port Corporation and the Victorian Channels Authority.

*Part 3* of the Bill is relevant legislation for the purposes of the **Office of the Regulator-General Act 1994** and sets out a price regulation regime for certain port services. It also contains provisions relating to access to certain channels.

*Part 4* of the Bill divests certain land from the PMA, vests it in the Crown and provides that MPC is to manage that land. It also allows for the revocation of reservations of certain Crown land by the Governor in Council and provides for the issue of Crown

grants to MPC, the Port of Geelong Authority (“PGA”) and the Port of Portland Authority (“PPA”) and others of that land.

*Part 5* of the Bill gives MPC the power to impose wharfage in certain situations and the VCA or a channel operator the power to impose a channel usage charge.

*Part 6* of the Bill requires the VCA or a channel operator to engage a licensed harbour master for port waters. The Part sets out the general functions of a harbour master and creates various offences.

*Part 7* of the Bill contains some miscellaneous provisions.

*Part 8* of the Bill provides for the transfer of port authority property from PMA, PGA and the PPA to MPC, VCA, a subsidiary of the port authority or the State.

*Part 9* of the Bill preserves the benefits, including superannuation benefits, of staff transferring from the employment of a port authority to MPC, VCA, the Environment Protection Authority, the Marine Board of Victoria, a local authority or a purchaser of the Port of Geelong, Portland or Hastings.

*Part 10* of the Bill sets out amendments to the **Port of Melbourne Authority Act 1958**, the **Port of Geelong Authority Act 1958** and the **Port of Portland Authority Act 1958** and provides for the repeal of certain sections of those Acts.

*Part 11* of the Bill amends the **Marine Act 1988** to insert provisions regarding licensed harbour masters in State waters other than port waters, to remove references to the port authorities, to amend the functions of the Marine Board of Victoria, to provide for the development and administration of the Victorian Marine Pollution Contingency Plan and to amend the constitution of the Marine Board of Victoria.

*Part 12* of the Bill amends the **Pollution of Waters by Oil & Noxious Substances Act 1986** (the “POWBONS Act”) so that certain offences which previously were included in the Marine Act are inserted into the POWBONS Act and so that the Environment Protection Authority becomes responsible for the prosecution of offences under that Act.

*Part 13* of the Bill amends the **Dangerous Goods Act 1985** so that its operation extends to dangerous goods in ports and the transfer of dangerous goods to and from ships.

*Part 14* of the Bill deals with consequential amendments to various Acts.

*Schedule 1* sets out provisions applying to MPC and VCA with respect to the appointment of directors and chief executive officers, proceedings of the boards and disclosure of interests.

## CLAUSE NOTES

### PART 1—PRELIMINARY

*Clause 1* sets out the purpose of the Act.

*Clause 2* provides for the commencement of the Act. Part 1 and section 189 (7) and (8) come into force on Royal Assent and the rest of the Act comes into force on a day or

days to be proclaimed. Any unproclaimed provisions come into force automatically twelve months from the date of Royal Assent.

*Clause 3* sets out definitions of “board”, “cargo” “channel”, “channel operator”, “coastal vested land”, “development”, “harbour master”, “instrument”, “liabilities”, “licensed harbour master”, “managed land”, “Marine Board”, “Melbourne port area”, “MPC”, navigation aid”, “owner”, “PGA”, “PMA”, “port authority”, “port corporation”, “port land”, “port operator”, “port waters”, “PPA”, “property”, “rights”, “stevedoring”, “VCA”, “vessel” and “works”.

*Clause 4* defines who is “the owner” of a vessel or cargo.

*Clause 5* provides that the Governor in Council may, by Order published in the Government Gazette, declare land to be “port land” for the ports of Geelong, Portland or Hastings and declare water to be “port waters” for the ports of Melbourne, Geelong, Portland or Hastings. It also empowers the Governor in Council, by Order published in the Government Gazette, to declare land vested in PGA or PPA not to be coastal vested land.

*Clause 6* provides that the Governor in Council may, by Order published in the Government Gazette, declare a subsidiary of MPC to be the declared subsidiary for certain purposes.

*Clause 7* sets out how to determine whether a body corporate is a subsidiary of MPC or VCA.

*Clause 8* provides that the Act binds the Crown.

*Clause 9* sets out the extra-territorial operation of the Act.

## **PART 2—PORT CORPORATIONS**

### **Division 1—Melbourne Port Corporation**

*Clause 10* establishes Melbourne Port Corporation.

*Clause 11* provides that MPC is a public authority but does not represent the Crown.

*Clause 12* sets out the objective of MPC.

*Clause 13* sets out the functions and powers of MPC.

*Clause 14* provides that MPC may construct or close roads on managed land. In the case of a road closure, MPC must cause a notice of closure to be published in the Government Gazette and, on publication, the road is closed and all easements, rights and privileges cease.

*Clause 15* allows the Governor in Council, on the request of MPC and the municipal council, to declare a road in the Melbourne port area to be a public highway.

*Clause 16* provides that, with respect to rateable land which was previously exempt from rates under the Port of Melbourne Authority Act, the rates payable are, for the first year that MPC owns or manages that land, reduced by 50% and for the second year reduced by 25%. The previous rate exemption which applied to the land for the period before MPC became owner or manager of the land is preserved.

*Clause 17* provides that the MPC may not give a financial benefit (within the meaning of section 243G of the Corporations Law) to the declared subsidiary of MPC unless the benefit is on arm's length terms and applies section 243N of the Corporations Law to MPC and the declared subsidiary of MPC.

### **Division 2—Victorian Channels Authority**

*Clause 18* establishes Victorian Channels Authority.

*Clause 19* provides that VCA is a public authority but does not represent the Crown.

*Clause 20* sets out the objective of VCA.

*Clause 21* sets out the functions and powers of VCA.

*Clause 22* describes VCA's power, in connection with carrying out its functions, to dredge rivers or the sea bed in port waters.

### **Division 3—General**

*Clause 23* gives MPC or VCA the power to recover damages from the owner, master or agent of a vessel for any injury caused by the vessel to its property or to any building, works, infrastructure or facilities on port land or port waters erected, established, installed, provided, managed or maintained by it. The liability of the owner, master or agent is strict.

*Clause 24* provides that if the VCA recovers against an owner, master or agent of any vessel for any injury under Section 24, and the injury was the result of negligence of some person other than the owner, master or agent, then the owner, master or agent may in turn recover against the person whose negligence caused the injury. The statutory limitation of liability of a pilot is preserved.

*Clause 25* provides that Schedule 1 applies to each port corporation i.e. MPC and VCA.

*Clause 26* sets out the powers of delegation of a port corporation.

*Clause 27* provides that a port corporation has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

*Clause 28* sets out the duties of directors of a port corporation.

*Clause 29* provides that if a person contravenes section 28, the port corporation or the Minister may recover an amount equal to any profit made by the person or any loss or damage suffered by the port corporation as a result of the contravention.

*Clause 30* provides that the Treasurer, after consultation with the Minister, may give any written direction to a port corporation that he or she thinks fit. In this section "port corporation" includes the declared subsidiary of MPC. A direction must not be given that is inconsistent with the objectives of port corporation or the Port Services Act.

*Clause 31* provides a port corporation is not to make loans to directors, their spouses or their relatives, nor is it to provide guarantees or security in connection with loans made by another person to directors, their spouses or their relatives. However, a port corporation can enter into an agreement with directors, their spouses or their relatives if

similar agreements are entered into by the port corporation with members of the public on the same terms and conditions.

*Clause 32* provides that the port corporation does not have the power to indemnify a director against liability that attaches to the director in respect of a wilful breach of duty or trust in relation to the port corporation.

*Clause 33* provides that the board of a port corporation must prepare a corporate plan for each financial year. Such corporate plan should include a statement of corporate intent, a business plan and financial statements and must be in a form approved by the Treasurer and the Minister.

*Clause 34* sets out what a statement of corporate intent must contain.

*Clause 35* provides that a port corporation must act in accordance with its corporate plan unless the Minister and the Treasurer have given the port corporation prior written approval to do otherwise.

*Clause 36*, however, provides that nothing done by a port corporation is void merely because the port corporation has failed to comply with sections 33, 34 or 35.

*Clause 37* provides that a port corporation must give immediate notice to the Minister and Treasurer of events which prevent, or significantly affect, the achievement of the business objectives of the port corporation under its corporate plan.

*Clause 38* gives the Treasurer, after consultation with the Minister, the power to direct a port corporation to perform certain functions which are in the public interest but that may cause the port corporation financial detriment. A port corporation may be reimbursed by the State for the amount of such financial detriment and the clause contains a standing appropriation from the Consolidated Fund for this purpose.

*Clause 39* provides that the Treasurer must, after consultation with the relevant Minister, determine the amount of initial capital for each port corporation.

*Clause 40* sets out how the capital of each port corporation is calculated.

*Clause 41* provides that the capital of a port corporation is repayable at such times and in such amounts as the Treasurer, after consultation with the Minister, directs.

*Clause 42* provides that a port corporation must pay dividends to the State in such amounts and at such times as the Treasurer, after consultation with the Minister, directs.

*Clause 43* gives the Minister or the Treasurer the power to require the board of a port corporation to give the Minister or the Treasurer such information as the Minister or the Treasurer requires.

*Clause 44* provides that the annual report of a port corporation must include a copy of each direction given to it under section 30 or 38, its response to that direction and a copy of its statement of corporate intent.

## **PART 3—REGULATION OF PORT SERVICES**

### **Division 1—Preliminary**

*Clause 45* sets out definitions for this Part of “channel operator”, “Competition Principles Agreement”, “Office”, “prescribed channel”, “prescribed prices”, “prescribed services”, “Pricing Order” and “regulated industry”.

*Clause 46* provides that this Part is relevant legislation for the purposes of the **Office of the Regulator-General Act 1994**.

*Clause 47* sets out the persons to whom this Part applies.

*Clause 48* sets out the objectives of the Office of the Regulator-General in relation to the regulated industry.

*Clause 49* defines the regulated industry, the prescribed prices and the prescribed services for the purpose of Part 3 of the **Office of the Regulator-General Act 1994**.

### **Division 2—Pricing Orders**

*Clause 50* gives the Governor in Council the power, by Order published in the Government Gazette, to regulate prescribed prices, and terms and conditions subject to which prescribed services are to be provided, in any one or more of the ports of Melbourne, Geelong, Portland and Hastings or in any part or parts of those ports. These Pricing Orders may contain directions to the Office of the Regulator-General regarding the exercise by the office of its powers whilst the Pricing Order is in force. The manner in which prescribed prices may be regulated under a Pricing Order is set out, including fixing maximum average revenue or a maximum rate of increase or minimum rate of decrease in the maximum average revenue and monitoring price levels.

A Pricing Order will have effect from the date specified in the Order and will be enforceable as if it were a determination under the Office of the Regulator-General Act. Section 52 provides that this Division expires as at 30 June 2000, but a Pricing Order may specify an earlier date on which it ceases to have effect. To provide certainty, however, a Pricing Order cannot be revoked before its expiry date and cannot be made, amended or varied after the expiry of 12 months after this Act receives Royal Assent. In the case of the parts of Geelong, Portland or Hastings, where there is a port operator in relation to that port or part of that port, a Pricing Order applying to that port or that part of that port, cannot be made, amended or varied.

*Clause 51* provides that a Pricing Order does not apply to existing contracts (meaning a contract between a towage contractor and a port authority entered into on or before 18 January 1995 and in force immediately before the commencement of this section) until the next adjustment of charges under that contract after the commencement of this Division.

*Clause 52* provides that this Division expires on 30 June 2000.

### **Division 3—General Powers**

*Clause 53* sets out when and how inquiries by the Office of the Regulator-General are to be conducted. The Office must conduct an inquiry not later than 1 January 2000 to determine whether or not prescribed services are to be subject to price regulation and the form of that regulation. Further inquiries must be held each 5 years with respect to all prescribed services which remain subject to price regulation.

*Clause 54* gives the Office the power to make price determinations if the Office determines that prescribed prices are to be subject to price regulation. In the case of towage (which is a prescribed service in the ports of Geelong, Portland and Hastings) the Office must ensure that any determination is consistent with the criteria applied by the Federal regulator in assessing towage prices in other Australian ports.

*Clause 55* provides that the Office may develop, issue and review standards and conditions of service and supply of prescribed services and monitor and report on compliance with those standards.

*Clause 56* requires the provider of prescribed services to keep financial and business records in respect of those prescribed services which are separate from other aspects of their business. Such records must be made available to the Office of the Regulator-General. It is an offence to fail to provide such records without lawful excuse. The privilege against self-incrimination is preserved. It is an offence to knowingly provide further false or misleading information. It is also an offence to threaten, coerce or intimidate a person who complies with this section.

*Clause 57* restricts the Office of the Regulator-General disclosing information of a confidential or commercially sensitive nature, which is given to it under Section 56, unless the Office is of the opinion that disclosure would not cause detriment to certain persons or, although detriment would be caused, the benefit of achieving the objectives of this Part outweigh that detriment.

#### **Division 4—Access**

*Clause 58* provides that this Division applies to a channel which is declared by the Governor in Council by Order published in the Government Gazette to be a significant infrastructure facility i.e. a “prescribed channel”.

*Clause 59* provides a channel operator must provide access to prescribed channels on fair and reasonable terms and conditions, must use all reasonable endeavours to meet the requirements of the person seeking access and must make a formal proposal of terms and conditions of access within a specified time limit of receiving a request.

*Clause 60* sets out the procedures to be followed if a channel operator does not make a formal proposal of the terms and conditions of access to a person seeking access or the person seeking access and the channel operator cannot agree on the terms and conditions on which access is to be provided.

*Clause 61* makes it an offence for a channel operator or any person who has access to a prescribed channel to hinder access to a prescribed channel by any other person in the reasonable exercise of a right of access.

*Clause 62* provides that the Office of the Regulator-General must, every five years, hold an inquiry to determine whether or not a channel that is a declared significant infrastructure facility has ceased to be such a facility. The circumstances in which a channel in port waters is a significant infrastructure facility are set out. As well, a channel ceases to be a significant infrastructure facility if the provision of the channel is a declared service under Part IIIA of the Trade Practices Act (Cth.) or is the subject of an access undertaking accepted under that Part.

*Clause 63* allows a channel operator of a prescribed channel to apply in writing to the Office of the Regulator-General requesting that the Office make a determination approving the terms and conditions on which access to the channel is to be provided generally and sets out the procedure for such a determination.

## **PART 4—PORT LAND**

### **Division 1—Port of Melbourne**

*Clause 64* divests certain land from the PMA and that land becomes unalienated Crown land. The land is delineated and shown in red stipple on a plan lodged in the Central Plan Office of the Department of Treasury and Finance. As well, there is capacity for further land to be divested from the PMA and to become unalienated Crown land. Nothing in this section affects the status or continuity of any lease or licence over the land.

*Clause 65* provides that the MPC will manage the land referred to in section 64 and sets out the scope of, and restrictions on, MPC's management powers.

*Clause 66* provides that the Minister and the Minister administering the **Crown Land (Reserves) Act 1978** may jointly recommend to the Governor in Council that the permanent or temporary reservation of any managed land be revoked. A recommendation must not be made unless the Ministers have received a plan of the area of the reservation to be revoked signed by the Surveyor General and are satisfied that the land described in the plan represents the area of the reservation to be revoked. On receiving the Ministers' recommendation the Governor in Council may, by Order published in the Government Gazette, revoke any Order in Council reserving the land and, on the publication of the Order, the land is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. Existing leases of and licences over the land are preserved, as is the status of the land as managed land.

*Clause 67* provides that the Governor in Council may, on the joint recommendation of the Minister and the Minister administering the **Crown Land (Reserves) Act 1978**, grant the MPC an estate in fee simple of any unalienated Crown land that is managed land and is not reserved. On the issue of a Crown grant the land ceases to be managed land.

### **Division 2—Port of Geelong**

*Clause 68* similarly provides that the Minister and the Minister administering the **Crown Land (Reserves) Act 1978** may jointly recommend to the Governor in Council that the permanent or temporary reservation of certain land, located in the current port of Geelong, be revoked. A recommendation must not be made unless the Ministers have received a plan of the area of the reservation to be revoked signed by the Surveyor General and are satisfied that the land described in the plan represents the area of the reservation to be revoked. On receiving the Ministers' recommendation the Governor in Council may, by Order published in the Government Gazette, revoke any Order in Council reserving the land and, on the publication of the Order, the land is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. It also enables the Governor in Council, by Order published in the Government Gazette, to divest unreserved land from PGA. Existing leases of and licences over the land are preserved.



Clause 69 provides that the Governor in Council may, on the joint recommendation of the Minister and the Minister administering the **Crown Land (Reserves) Act 1978**, grant PGA or another person an estate in fee simple of unalienated Crown land that has been vested in PGA and is not reserved. Existing leases and licences are preserved.

### **Division 3—Port of Portland**

Clause 70 again provides that the Minister and the Minister administering the **Crown Land (Reserves) Act 1978** may jointly recommend to the Governor in Council that the permanent or temporary reservation of certain land, located in the current port of Portland, be revoked. A recommendation must not be made unless the Ministers have received a plan of the area of the reservation to be revoked signed by the Surveyor General and are satisfied that the land described in the plan represents the area of the reservation to be revoked. On receiving the Ministers' recommendation the Governor in Council may, by Order published in the Government Gazette, revoke any Order in Council reserving the land and, on the publication of the Order, the land is deemed to be unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests. It also enables the Governor in Council, by Order published in the Government Gazette, to divest unreserved land from PPA. Existing leases of and licences over the land are preserved.

Clause 71 provides that the Governor in Council may, on the joint recommendation of the Minister and the Minister administering the **Crown Land (Reserves) Act 1978**, grant PPA or another person an estate in fee simple of unalienated Crown land that has been vested in PPA and is not reserved. Existing leases and licences are preserved.

### **Division 4—General**

Clause 72 requires the Registrar General make all entries to the records of enrolment of any Crown grant and on any memorial that are necessary because of the operation of this Part. Similarly, the Registrar of Titles must make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of this Part.

Clause 73 provides that no stamp duty or other tax is chargeable for anything done under this Part.

## **PART 5—PORT CHARGES**

Clause 74 gives MPC the power to impose, on a statutory basis, a wharfage charge, with the approval of the Minister, in respect of leased sites in the Melbourne port area at which stevedoring is carried out. Wharfage may be determined by reference to quantity, volume, weight or value of cargo. Nothing in this clause affects MPC's capacity to charge wharfage under the terms of a contract.

Clause 75 gives VCA or a channel operator the power to impose a channel usage charge on the owner of a vessel, with the approval of the Minister.

Clause 76 provides that an occupier or licensee of land within the Melbourne port area (other than MPC) must pay a port promotion levy to MPC.

*Clause 77* provides that MPC must establish and maintain a fund to be called the Port Promotion Fund. Any amounts received as port promotion levy or given to MPC for the purpose of promotion of the port of Melbourne must be paid into it and those monies applied in the promotion of the use of the port of Melbourne for maritime commerce.

*Clause 78* provides that a wharfage or channel usage charge is payable on demand, that MPC, VCA or the channel operator may appoint agents for the collection of these charges, that a charge under this Part is a debt due to MPC, VCA or the channel operator (as the case requires) and is recoverable in a court of competent jurisdiction, and for joint and several liability where there is more than one person liable to pay a wharfage or channel usage charge.

*Clause 79* provides that unpaid wharfage and channel usage charges attract interest at a rate determined by MPC, VCA or the channel operator, provided that the rate determined does not exceed the prescribed rate.

*Clause 80* gives MPC, VCA or a channel operator the power to require a security deposit for payment of wharfage or channel usage charges.

*Clause 81* imposes liability on the current owners and agents of a vessel for unpaid channel usage charges.

*Clause 82* gives the MPC, VCA and a channel operator the power to waive or refund any wharfage or channel usage charge that is due to it.

## **PART 6—HARBOUR MASTERS**

*Clause 83* requires the VCA to ensure that a licensed harbour master is engaged for port waters under its control where there is no channel operator. For port waters under VCA's control for which there is a channel operator, the same obligation is placed on the channel operator. There is a penalty imposed on VCA or the channel operator for each day the offence continues.

*Clause 84* sets out the general functions of a harbour master in relation to port waters for which he or she is the harbour master.

*Clause 85* allows a harbour master to authorise certain other persons to exercise his or her functions.

*Clause 86* sets out the general powers of a harbour master and gives the harbour master the power to direct and control vessels in port waters for which he or she is the harbour master.

*Clause 87* gives the harbour master the power to prohibit vessels from entering, or to require the removal of dangerous vessels, in waters for which he or she is the harbour master. A direction under this section may be revoked by the Marine Board of Victoria.

*Clause 88* provides that if there is no person on board a vessel to whom directions may be given and there are reasonable grounds for the harbour master to act urgently, or a direction is not complied with, the harbour Master may cause the vessel to be dealt with as required by the harbour master. This includes a power to board and operate the vessel and recover reasonable charges and expenses incurred under this section.

*Clause 89* provides that it is an offence for a master of a vessel to fail to comply with the reasonable direction of a harbour master, or for any person to obstruct a harbour master in the performance of his or her duty.

*Clause 90* provides that the VCA or a channel operator must give an identity card to a harbour master which it engages. A harbour master must also give an identity card to a person authorised to carry out the harbour master's functions under section 85. An identity card must be produced on request.

*Clause 91* protects a harbour master from personal liability from anything done or omitted to be done in good faith in the exercise of a power or performance of a function, or in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function. Any liability that would, but for the limitation on liability, attach to the harbour master attaches instead to VCA or the channel operator by which the harbour master is engaged.

## **PART 7—GENERAL**

*Clause 92* provides that where the rights and liabilities of a port authority under an agreement or instrument become liabilities of a port corporation, another port corporation may, instead of the first port corporation, and personally or by agent, perform any obligation, act or conduct which the first port corporation was allowed to perform under the agreement. This section is to enable performance of obligations which previously may have been capable of performance by the port authority but, because of the division of roles between MPC and VCA, may be performed more easily by one port corporation although the agreement has been transferred to the other port corporation. Similarly, where agreements are not transferred to a port corporation but remain with a port authority, a port corporation may perform obligations in place of a port authority.

*Clause 93* allows the Minister to prepare and approve one amendment to existing planning schemes to substitute certain other references for a reference to a port authority, to change the designation of land reserved for the purposes of a specified port authority, to specify certain other persons as a responsible authority or as a referral authority, to provide that no permit is required in certain circumstances and to zone and re-zone certain land.

*Clause 94* provides that where an offence is committed by a body corporate any person who takes part in the management of that body corporate may be charged and convicted with the same offence. However, a defence exists if the person is able to prove that the offence took place without that person's knowledge or consent.

*Clause 95* sets out how documents may be served on a port corporation.

*Clause 96* allows the Treasurer to execute a guarantee, on behalf of the government of Victoria, guaranteeing certain amounts that become payable by a port corporation.

*Clause 97* provides that the regulations may exempt a port corporation from the provisions of Part IV of the Trade Practices Act 1974 (Cth.) for a particular period.

*Clause 98* gives the Governor in Council the power to make regulations with respect to various matters.

## **PART 8—TRANSFER OF PROPERTY**

### **Division 1—Preliminary**

*Clause 99* sets out the definitions for this Part of “former port instrument”, “former port authority property”, “PGA instrument”, “PMA instrument”, “PPA instrument”, “relevant date”, “transferee” and “transferor”.

### **Division 2—Transfer by operation of Act**

*Clause 100* transfers certain freehold land, identified by volume and folio number, from PMA to MPC.

### **Division 3—Transfer by allocation**

*Clause 101* gives the Treasurer the power, after consultation with the Minister, to direct a port authority to transfer property, rights or liabilities to a port corporation, a wholly owned subsidiary of the port authority or the State.

*Clause 102* provides that all the property, rights and liabilities of a port authority that are allocated under an allocation statement in accordance with direction of the Treasurer under section 101, vest in accordance with that statement.

*Clause 103* provides that where property and rights vest in a transferee, they do so subject to the encumbrances to which the property and rights were subject immediately before it vested and where liabilities become liabilities of a transferee, the rights of the transferor become the rights of the transferee.

*Clause 104* provides for the recovery of monies by the Treasury Corporation of Victoria or a port corporation where an order has been made under section 36D (1) or 36E (1) of the **Treasury Corporation of Victoria Act 1992** relating to the financial obligations of PMA and responsibility for those financial obligations has been allocated to a port corporation. The section provides that in these circumstances, the port corporation must pay to the Treasury Corporation of Victoria such amounts as PMA would have been liable to pay and the Treasury Corporation of Victoria must pay to the port corporation such amounts as PMA would have been entitled to (as the case may be).

### **Division 4—General**

*Clause 105* provides that a certificate signed by the Chief Executive Officer of a port authority that property, rights, or liabilities have been vested by in or become liabilities of the transferee by operation of the Act or under an allocation statement is conclusive evidence that the property, rights and liabilities have been vested, allocated or become the liabilities of the transferee and have become the property, rights and liabilities of the transferee and the relevant date, unless the certificate has been revoked.

*Clause 106* provides that the value to a transferee of the property which is transferred by section 100 is the value determined by the Treasurer and that the value of property, rights and liabilities transferred by allocation statement is the value shown in that statement.

*Clause 107* allows for substitution of a party to an agreement transferred under section 101.

*Clause 108* provides that former port authority instruments continue to have effect as if a reference to the transferor were a reference to the transferee.

*Clause 109* provides that, if proceedings relating to former port authority property are pending or existing, then the transferee is substituted for the transferor as party to the proceedings and has the same rights as the transferor had.

*Clause 110* provides that the transferees of port authority property are to be taken to be the registered proprietors of that property.

*Clause 111* requires the Registrar of Titles to make any changes to the Register which are necessary because of the operation of this Part. With respect to land which is not under the **Transfer of Land Act 1958**, the transferee must cause a memorial of the certificate of the chief executive officer of the transferor to be delivered to the Registrar-General and that certificate must be taken as an instrument affecting land.

*Clause 112* provides that no stamp duty or other tax is chargeable in respect of anything effected or done under this Part for the purpose of the transfer of property, rights or liabilities of a port authority.

*Clause 113* sets out what evidence can be used for or against a transferee in proceedings relating to former port authority property.

*Clause 114* provides that nothing done under this Part is to be regarded as making any person guilty of a civil wrong or in breach of any Act, law or other agreement.

#### **Division 5—Rights as between Transferees**

*Clause 115* gives a transferee of former port authority property power to exercise rights and privileges with respect to former port authority property that has become property of another transferee, if the exercise of such power is necessary to enable the first mentioned transferee to carry out its functions. Reasonable charges may be charged for the exercise of such rights and privileges.

*Clause 116* allows a transferee to exercise rights in respect of easements to which another transferee is entitled, if the exercise of such a power is reasonably necessary to enable the first mentioned transferee to carry out its functions. Reasonable fees may be charged for the exercise of such rights and privileges.

#### **PART 9—STAFF**

*Clause 117* sets out the definitions for this Port of “complying superannuation scheme”, “current defined benefit scheme”, “designated agency”, “designated agency employee”, “designated port employee”, “Port authority employee”, “port corporation employee”, “purchaser”, regional port employee” and “transfer period”.

*Clause 118* provides that an employee of a port authority who accepts an offer of employment made by a port corporation or a designated agency, before 30 June 1996, is to be regarded for all purposes as having been continuously employed by the port corporation or designated agency. Similarly, an employee of a port authority who accepts an offer of employment made by a local authority under the Marine Act, is to be regarded for all purposes as having been continuously employed by the local authority continuously. In both instances, benefits to entitlements are preserved.

## **Division 2—Superannuation**

*Clause 119* sets out that port corporation employees or designated agency employees who were members of certain superannuation funds immediately before becoming such employees continue as members of those funds. This section applies a similar provision to certain designated port employees.

*Clause 120* provides that certain port authority employees will become members of the Local Authority Superannuation Fund on becoming designated port employees. However, they are entitled to receive the same superannuation benefits as if they had not transferred to that fund but had remained in their previous defined benefit scheme.

*Clause 121* sets out what happens to the benefits of persons, to whom section 120 applies, if they cease to be an employee of a local authority so as to become an employee of an Authority under the **Local Authorities Superannuation Act 1988**.

*Clause 122* sets out what is to occur in the event of any unfunded liabilities arising under section 120 and the determination of contributions to be made by the Treasurer or PMA, PGA or PPA in those circumstances.

*Clause 123* gives regional port employees, who accept employment with a purchaser, the ability to elect to transfer to a complying superannuation scheme.

*Clause 124* provides that no stamp duty or tax is payable in respect of anything done under this Part.

*Clause 125* provides for an appropriation from the Consolidated Fund for any payment required to be made under section 122 or 123.

## **PART 10—AMENDMENT OF PORT ACTS**

### **Division 1—Port of Melbourne Authority Act 1958**

*Clause 126* amends section 3 of the **Port of Melbourne Authority Act 1958** by inserting, varying and removing certain definitions. In particular, the definition of “the port” is amended.

*Clause 127* amends section 3AA of the Port of Melbourne Authority Act so that the power to declare an associated port may not be exercised with respect to lands or waters which as at 1 January 1995 formed part of the ports of Melbourne, Geelong or Portland.

*Clause 128* amends section 10 of the Port of Melbourne Authority Act to require PMA to dispose of its assets, liabilities undertaking or business to a specified person if the Treasurer, after consultation with the Minister, gives it a written direction to do so. This section and section 133, in particular, are to facilitate the sale of the port of Hastings.

*Clause 129* inserts a new section 11 into the Port of Melbourne Authority Act. That section gives the Treasurer the power to give written directions to members of PMA in relation to the performance of the functions or the exercise of the powers of the Authority.

*Clause 130* inserts a new section 29 into the Port of Melbourne Authority Act which requires PMA to include a copy of each direction given to it under section 11, a statement of its response to such a direction and a copy of the statement of corporate intent last completed.

*Clause 131* inserts new sections 50A, 50B and 50C into the Port of Melbourne Authority Act. Section 50A requires PMA to have the prior written approval of the Treasurer before it sells or grants a lease or a licence over any land. Section 50B provides that no special land tax is payable with respect to land that ceases to be exempt from land tax because of it ceasing to be vested in PMA after this section commences. Section 50C validates certain leases entered into after 23 December 1986 which did not have the approval of the Minister required at the time that the leases were entered into.

*Clause 132* amends section 55 (1) of the Port of Melbourne Authority Act to take account of this Bill.

*Clause 133* inserts new sections 56, 56A and 56B into the Port of Melbourne Authority Act. Section 56 gives the PMA, with the approval of the Treasurer, the power to form, participate in the formation of, or be a member of a company. Section 56A gives the Treasurer, after consultation with the Minister, the power to exercise any power of PMA with respect to the sale, leasing or licensing of land or the sale, assignment, transfer or disposal of any part of the assets, liabilities, undertaking or business of PMA. Section 56B gives the Treasurer the power to indemnify PMA or any other person in respect of any liability of PMA.

*Clause 134* amends section 115 of the Port of Melbourne Authority Act by providing for the way in which proceeds of sale of any sale of any assets, liabilities, undertaking or business of PMA should be dealt with.

*Clause 135* repeals certain provisions of the Port of Melbourne Authority Act and contains certain savings provisions.

### **Division 2—Port of Geelong Authority Act 1958**

This Division contains provisions very similar to the amendments made to the Port of Melbourne Authority Act.

*Clause 136* amends section 3 of the Port of Geelong Authority Act by inserting, varying and removing certain definitions. In particular, the definition of “the port” is amended.

*Clause 137* amends section 3AA of the Port of Geelong Authority Act so that the power to declare an associated port may not be exercised with respect to lands or waters which as at 1 January 1995 formed part of the ports of Melbourne, Geelong or Portland.

*Clause 138* inserts new sections 4A to 4C into the Port of Geelong Authority Act. Section 4A requires PGA to dispose of its assets, liabilities undertaking or business to a specified person if the Treasurer, after consultation with the Minister, gives it a written direction to do so. Section 4B allows PGA to form or participate in the formation of, or be a member of, a company, with the approval of the Treasurer. Section 4C gives the Treasurer the power to indemnify PGA or any other person in respect of any liability of PGA. These sections and the sections inserted by section 141, in particular, are to facilitate the sale of the port of Geelong.

*Clause 139* substitutes section 6A of the Port of Geelong Authority Act. It gives the Treasurer the power to give written directions to members of PGA in relation to the performance of the functions or the exercise of the powers of PGA.

*Clause 140* inserts a new section 9A into the Port of Geelong Authority Act which requires PGA to include a copy of each direction given to it under section 6A, a statement of its response to such a direction and a copy of the statement of corporate intent last completed.

*Clause 141* inserts new sections 25, 26, 26A, 26B and 26C into the Port of Geelong Authority Act. Section 25 requires PGA to have the prior written approval of the Treasurer before it sells or grants a lease or a licence over any land. Section 26 provides that, with respect to rateable land that is sold by PGA and which was previously exempt under the Port of Geelong Authority Act, the rates payable are, for the first year reduced by 50% and for the second year reduced by 25%. The previous rate exemption which applied to the land for the period before the land was sold is preserved. Section 26 also provides that no special land tax is payable with respect to land that ceases to be exempt from land tax because of it ceasing to be vested in PGA after this section commences. Section 26A validates certain leases entered into after 23 December 1986 which did not have the approval of the Minister required at the time that the leases were entered into. Section 26B gives the Treasurer, after consultation with the Minister, the power to exercise any power of PGA with respect to the sale, leasing or licensing of land or the sale, assignment, transfer or disposal of any part of the assets, liabilities, undertaking or business of PGA. Section 26C provides that section 32 of the Sale of Land Act does not apply to certain sales of land by PGA or the Treasurer.

*Clause 142* amends section 38 (1) of the Port of Geelong Authority Act to take account of this Bill.

*Clause 143* amends section 84 of the Port of Geelong Authority Act by providing for the way in which proceeds of sale of any sale of any assets, liabilities, undertaking or business of PGA should be dealt with.

*Clause 144* repeals certain provisions of the Port of Geelong Authority Act and contains certain savings provisions.

### **Division 3—Port of Portland Authority Act 1958**

This Division, again, contains provisions which are very similar to the amendments made to the Port of Melbourne Authority Act and the Port of Geelong Authority Act.

*Clause 145* amends section 3 of the **Port of Portland Authority Act 1958** by inserting, varying and removing certain definitions. In particular, the definition of “the port” is amended.

*Clause 146* amends section 3AA of the Port of Portland Authority Act so that the power to declare an associated port may not be exercised with respect to lands or waters which as at 1 January 1995 formed part of the ports of Melbourne, Geelong or Portland.

*Clause 147* inserts new sections 4A to 4C in the Port of Portland Authority Act. Section 4C requires PPA to dispose of its assets, liabilities undertaking or business to a specified person if the Treasurer, after consultation with the Minister, gives it a written direction to do so. Section 4B allows PPA to form or participate in the formation of, or be a member of, a company, with the approval of the Treasurer. Section 4C gives the Treasurer the power to indemnify PPA or any other person in respect of any liability of PPA. These sections and the sections inserted by section 149, in particular, are to facilitate the sale of the port of Portland.



*Clause 148* inserts new sections 6B and 6C into the Port of Portland Authority Act. Section 6B gives the Treasurer the power to give written directions to members of PPA in relation to the performance of the functions or the exercise of the powers of PPA. Section 6C requires PPA to include a copy of each direction given to it under section 6B, a statement of its response to such a direction and a copy of the statement of corporate intent last completed.

*Clause 149* inserts new sections 17B, 17C, 17D, 17E and 17F into the Port of Portland Authority Act. Section 27B requires PPA to have the prior written approval of the Treasurer before it sells or grants a lease or a licence over any land. Section 17C provides that, with respect to rateable land that is sold by PPA and which was previously exempt under the Port of Portland Authority Act, the rates payable are, for the first year reduced by 50% and for the second year reduced by 25%. The previous rate exemption which applied to the land for the period before the land was sold is preserved. Section 17C also provides that no special land tax is payable with respect to land that ceases to be exempt from land tax because of it ceasing to be vested in PPA after this section commences. Section 17D validates certain leases entered into after 23 December 1986 which did not have the approval of the Minister required at the time that the leases were entered into. Section 17E gives the Treasurer, after consultation with the Minister, the power to exercise any power of PPA with respect to the sale, leasing or licensing of land or the sale, assignment, transfer or disposal of any part of the assets, liabilities, undertaking or business of PPA. Section 17F provides that section 32 of the Sale of Land Act does not apply to certain sales of land by PPA or the Treasurer.

*Clause 150* amends section 20 of the Port of Portland Authority Act to take account of this Bill.

*Clause 151* amends section 42 of the Port of Portland Authority Act by providing for the way in which proceeds of sale of any sale of any assets, liabilities, undertaking or business of PPA should be dealt with.

*Clause 152* repeals certain provisions of the Port of Portland Authority Act and contains certain savings provisions.

## **PART 11—AMENDMENT OF MARINE ACT 1988**

*Clause 153* amends section 3 (1) of the **Marine Act 1988** by inserting various definitions of “channel operator”, “harbour master”, “licensed harbour master”, “navigation and”, “port”, “port waters”, “Victorian Channels Authority” and “Victorian Marine Pollution Contingency Plan” as well as repealing the definition of “Port Authority”.

*Clause 154* removes references to “Port Authorities” in the Marine Act and in some instances replaces a reference to a “Port Authority” with a reference to VCA, a channel operator or a local authority.

*Clause 155* makes a technical amendment to section 16 of the Marine Act.

*Clause 156* amends certain references to authorised officers in the Marine Act.

*Clause 157* inserts a new section 20A into the Marine Act. It requires the owner or master of a trading or fishing vessel to report any damage or defect to the vessel, and certain incidents, to the Marine Board.

*Clause 158* amends section 23 of the Marine Act so that any person may be guilty of the offence of committing an act tending to endanger a vessel or crew contained in that section. The penalty is increased from 20 penalty units to 240 penalty units, in keeping with other offences inserted into the Marine Act.

*Clause 159* inserts a new Part 3A into the Marine Act. That Part contains new sections 26A to 26I, dealing with harbour masters. These provisions apply to State waters under the control of a local authority if the Marine Board has determined that a licensed harbour master is required to be engaged for those waters. The provisions effectively replicate the provisions contained in the Port Services Act with respect to harbour masters required to be engaged for port waters. Section 26A requires a local authority to ensure that a harbour master is engaged where it is required to do so. Section 26B sets out the general functions of harbour masters. Section 26C allows for the authorisation of another person to act as harbour master. Section 26D sets out the general powers of a harbour master. Section 26E sets out the powers of a harbour master to give directions to vessels. Section 26F gives a harbour master power to deal with vessels in certain circumstances. Section 26G makes it an offence to fail to comply with, or obstruct, a harbour master. Section 26H provides for identity cards. Section 26I protects a harbour master from personal liability in certain circumstances and, where the immunity applies, attaches the liability to the local authority by which the harbour master is engaged.

*Clause 160* repeals various sections of the Marine Act which relate to pollution.

*Clause 161* amends section 49 of the Marine Act so that fines collected under the Act are paid into the Consolidated Fund not the fund of a port authority.

*Clause 162* amends section 63 of the Marine Act, replacing references to the common seal of the Marine Board with references to an official seal.

*Clause 163* expands the objectives of the Marine Board, so that they include facilitating the safety of navigation on State waters and being responsible for ensuring an effective response to oil pollution incidents in State waters.

*Clause 164* amends the functions of the Marine Board by deleting the existing paragraphs (h), (i) and (j), which deal with entering into agreements with respect to pilotage, providing pilotage where no suitable agreement has been entered into and fixing pilotage rates. Additional functions are then given to the Marine Board in relation to standards and procedures for navigation and maritime safety; standards for the provision and maintenance of navigation aids; standards for the dredging and maintenance of channels; the removal of impediments or obstructions to navigation; the development, review, co-ordination and administration of the Victorian Marine Pollution Contingency Plan (after consultation with the Environment Protection Authority); determination of the parts of State waters in which a licensed pilot is required to be engaged; determination of the parts of State waters (other than the port waters of the port of Melbourne, Geelong, Portland or Hastings) with respect to which a licensed harbour master is required; and licensing harbour masters and determination of standards for their training. An existing contract with respect to the provision of pilotage services is preserved. However, the Marine Board is required to consult with the Office of the Regulator-General when conducting a review of pilotage rates under that agreement.

*Clause 165* inserts new sections 66A, 66B, 66C and 66D into the Marine Act. Section 66A gives the Board the power to acquire land by compulsory acquisition for the purpose

of providing a navigation aid. Section 66B gives the Board the power to provide or maintain a navigation aid and to recover costs which flow from the person who has failed to do so. Sections 66C protects a director of the Marine Board from personal liability from anything done or omitted to be done in good faith in the exercise of a power or a performance of a function under new section 65 (*jb*) (development and administration of the Victorian Marine Pollution Contingency Plan) or new section 66B (2). Section 66D protects a person required to participate in the Victorian Marine Pollution Contingency Plan from personal liability for anything done or omitted to be done in good faith in carrying out the requirement or in the reasonable belief that the act or omission was carrying out that requirement. In each of sections 66C or 66D, liability that, but for the immunity, would attach to the director or the person (as the case may be) attaches instead to the Crown.

*Clause* 166 requires the Board to include a copy of directions which it gives under section 68 (1) in its Annual Report.

*Clause* 167 substitutes new sections, 69 to 74E, for the existing sections 69 to 74 of the Marine Act. Section 69 sets out the constitution of the Board. Section 70 sets the terms and conditions of appointment of Board members. Section 71 sets out how vacancies and resignations may arise, and how a director may be removed from office. Section 72 provides that a decision of the Board is not invalid merely because of a defect or irregularity in the appointment of a director or a vacancy in the membership of the Board. Section 73 sets out how Board meetings are to proceed. Section 74 provides for resolutions without Board meetings. Section 74A provides for disclosure of interests of Board members. Section 74B sets out the duties of directors. Section 74C provides for recovery from a director of profit gained or loss or damage suffered by the Board from a contravention of section 74B. Section 74D provides for a limitation on the giving of loans, guarantees and security to directors, their spouses or relatives. Section 74 provides that the Marine Board may not indemnify a director for liability for a wilful breach of duty or breach of trust. This clause also contains transitional provisions with respect to the existing Marine Board.

*Clause* 168 substitutes section 76 of the Marine Act by inserting a new power of delegation.

*Clause* 169 gives the Board the power to investigate any accident or incident reported to it under the new section 20A, inserted by section 157.

*Clause* 170 inserts a new section 85A into the Marine Act. It provides that, if a notice under paragraph 18D of Schedule 4 of the Marine Act is not complied with, an officer of the Board may enter a premises to take possession of a light or order that the light be forfeited.

*Clause* 171 inserts new section 91A into the Marine Act. It gives the Board the power to recover damages from any person who has removed or damaged a light house, light ship, buoy, beacon, navigation aid or other land or sea mark used for the safety or convenience of navigation.

*Clause* 172 inserts new section 92A into the Marine Act. It provides that it is an offence for any person to fail to comply with a direction given by the Board under paragraph 18C, 18H or 22 of Schedule 4 and for the VCA, a channel operator or a local authority to fail to comply with a standard developed under paragraph 18B or 18C.

*Clause 173* makes it an offence for a person to act as a harbour master unless he or she is licensed to do so.

*Clause 174* amends section 96 of the Marine Act so that the existing offence of failing to use the services of a pilot does not apply where a pilot is not required by the Marine Board to be engaged.

*Clause 175* substitutes section 98 of the Marine Act. It provides that the owner or master of a vessel must not operate an unsafe vessel and describes the circumstances in which a vessel is an unsafe vessel. It provides for the detention (provisional or final) of unsafe vessels by the Marine Board.

*Clause 176* provides that where service is permitted or required on the owner or master of a vessel, service may be made by service on the agent for the vessel.

*Clause 177* amends section 108 of the Marine Act to allow fees to be charged for various matters.

*Clause 178* repeals Division 4 of Part 10 of the Marine Act.

*Clause 179* sets out particular powers of the Marine Board with respect to harbour masters, tonnage, navigation aids, removal of unseaworthy vessels, extinguishment of lights, navigation and vessel movement, anchorages, dredging and maintenance of channels, information about the depths and configurations of channels and requiring participation of certain persons in the Victorian Marine Pollution Contingency Plan.

*Clause 180* sets out particular subjects for the licensing of regulations including the licensing of harbour masters, navigation, ballast, obstructions to navigation, fires and fire fighting on board vessels, access to and from vessels, bunkering and tonnage.

## **PART 12—AMENDMENT OF POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES ACT 1986**

*Clause 181* inserts definitions of “agent”, “discharge”, “liquid substance”, “mixture”, “occupier”, “oil”, “oily mixture”, “oil tanker”, “oil residues”, “place on land”, “prohibited discharge”, “public statutory body”, “ship”, “transfer operation” and “undesirable substance”, into, and repeals definitions contained in, section 3 (1) of the **Pollution of Waters by Oil and Noxious Substances Act 1986** (“POWBONS Act”).

*Clause 182* amends section 6 of the POWBONS Act so that the references to the Minister are to the Environment Protection Authority and extends the delegation power contained in section 6.

*Clause 183* inserts Division 2D into the POWBONS Act, which replicates the provisions previously appearing in the Marine Act and which are repealed by section 160 of this Act. New section 23H contains definitions for this Division. New section 23I provides in the event of inconsistency the **Environment Protection Act 1970** prevails. New section 23J prohibits certain discharges into State waters. New section 23K provides that it is an offence for a ship to discharge oil, an oily mixture or undesirable substance into State waters. New section 23L provides that certain persons have a duty to report any such discharges.

*Clause 184* repeals sections 24A and 24B of the POWBONS Act.

*Clause 185* amends section 24E of the POWBONS Act to take account of this Bill.

*Clause 186* amends section 27 of the POWBONS Act to allow for evidence to be presented in the form of maps or charts.

*Clause 187* substitutes section 28 of the Act so that certain sections of the **Environment Protection Act 1970** are read and construed as one with the POWBONS Act. This allows the Environment Protection Authority to prosecute for offences under the POWBONS Act.

*Clause 188* inserts section 34A into the Act to require that section 59AA of the Environment Protection Act to be read and construed as one with the POWBONS Act. This allows for the manner of the execution of documents by the Environment Protection Authority.

*Clause 189* sets out consequential amendments to the POWBONS Act.

### **PART 13—AMENDMENT OF DANGEROUS GOODS ACT 1985**

*Clause 190* inserts a new definition into the **Dangerous Goods Act 1985**.

*Clause 191* substitutes a new section for the existing section 9 (c) of the Dangerous Goods Act so that the exclusions to the application of the Dangerous Goods Act with respect to ports are limited to the transport of dangerous goods by ship, ship to ship transfers of dangerous goods and the transport by boat of dangerous goods (not being explosives) carried as freight.

*Clause 192* amends the Dangerous Goods Act so that various sections apply to ships.

*Clause 193* extends the regulation making power under the Dangerous Goods Act to apply to ships or boats, including the conditions on which dangerous goods may be transferred on or transferred from any ship or boat.

### **PART 14—AMENDMENT OF OTHER ACTS**

*Clause 194* sets out consequential amendments to the **Borrowing and Investment Powers Act 1987** so that certain sections apply to MPC and VCA.

*Clause 195* sets out consequential amendments to section 36A and schedule 1 of the **Treasury Corporation of Victoria Act 1992**.

*Clause 196* sets out the consequential amendments to section 6 of the **Ports Act (Amendment) Act 1995** and provides for the repeal of certain other sections of that Act.

*Clause 197* sets out a consequential amendment to the **Westernport Development Act 1967**.

*Clause 198* amends the Westernport Development Act to allow for the variation by agreement of the Agreement ratified by that Act.

*Clause 199* sets out a consequential amendment to the **Westernport (Steel Works) Act 1970**.

*Clause 200* amends the **Westernport (Steel Works) Act 1970** to allow for the variation by agreement of the Agreement ratified by that Act.

*Clause 201* provides for consequential amendments to the **Bayside Project Act 1988**.

*Clause 202* provides for consequential amendments to the **Docklands Authority Act 1991**.

*Clause 203* provides for consequential amendments to the **Environment Protection Act 1970**.

*Clause 204* provides for consequential amendments to the **Historic Buildings Act 1981**.

*Clause 205* provides for consequential amendments to the **Land Act 1958**.

*Clause 206* provides for consequential amendments to the **Metropolitan Fire Brigades Act 1958**.

*Clause 207* provides for consequential amendments to the **Melbourne and Metropolitan Board of Works Act 1958**.

## SCHEDULE 1

### PROVISIONS APPLYING TO PORT CORPORATIONS

This schedule sets out provisions which apply to port corporations.

*Clause 1* outlines the composition of the board of directors.

*Clause 2* sets out the constitution of the board.

*Clause 3* provides for the appointment of directors.

*Clause 4* sets out the terms and conditions of appointment of directors.

*Clause 5* outlines how persons can be appointed to act in the place of members of the board.

*Clause 6* provides for the office of the Chief Executive Officer and other staff of a port corporation.

*Clause 7* provides for procedures following a vacancy, resignation or removal from office of a director of a port corporation.

*Clause 8* provides that certain decisions of the board or of the chairperson, deputy chairperson or a director, of a port corporation are not invalid merely due to irregularities of appointment or a vacancy in membership.

*Clause 9* outlines how proceedings of the board are to be conducted.

*Clause 10* allows for the circulation and adoption of resolutions of the board without board meetings.

*Clause 11* requires a director to disclose any interest which might conflict with the proper performance of the director's duties.