

Version No. 013
City of Melbourne Act 2001
No. 5 of 2001

Version incorporating amendments as at 8 December 2009

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Version No. 013
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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY MATTERS

1 Purpose

The purpose of this Act is—

- (a) to alter the electoral structure of the City of Melbourne; and
- (b) to provide for the direct election of the Lord Mayor of Melbourne and the Deputy Lord Mayor of Melbourne; and
- (c) to facilitate an early election of the members of the Melbourne City Council; and
- (d) to provide for greater co-ordination between the State Government and the Council in relation to matters of significance to the State of Victoria; and
- (e) to transfer provisions that only affect the City of Melbourne to this Act.

2 Commencement

- (1) Section 1 and this section come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

- (3) If a provision referred to in subsection (2) does not come into operation before 1 January 2002, it comes into operation on that day.

3 Definitions

In this Act—

S. 3 def. of
Authority
inserted by
No. 74/2006
s. 3.

Authority means the Victorian Urban Development Authority established by the **Victorian Urban Development Authority Act 2003**;

City of Melbourne means the municipal district of the Council;

Council means the Melbourne City Council;

Deputy Lord Mayor means the Deputy Lord Mayor of the City of Melbourne;

S. 3 def. of
docklands area
inserted by
No. 74/2006
s. 3.

docklands area has the same meaning as in the **Docklands Act 1991**;

S. 3 def. of
election day
inserted by
No. 109/2003
s. 94.

election day means—

- (a) in the case of an election, the day of an election determined under section 31 or 38 of the **Local Government Act 1989**;
- (b) in the case of a poll of voters', the relevant date specified in the public notice under clause 16 of Schedule 3 of the **Local Government Act 1989**;

S. 3 def. of
Electoral Commission
inserted by
No. 109/2003
s. 94.

Electoral Commission means any person or body that is authorised under the law of the State of Victoria or of the Commonwealth or of any other State or of a Territory of the Commonwealth to conduct parliamentary elections in Victoria or the Commonwealth

or the other State or the Territory of the Commonwealth;

entitlement date means—

- (a) the day that is 57 days before the election day; or
- (b) if the date determined under paragraph (a) is a public holiday, means the day which is the last working day before that day;

S. 3 def. of ***entitlement date*** inserted by No. 109/2003 s. 94.

exhibition roll means the roll prepared under section 11B;

S. 3 def. of ***exhibition roll*** inserted by No. 109/2003 s. 94.

exhibition roll date means—

- (a) the day that is 100 days before election day; or
- (b) an earlier day than the day that is 100 days before election day and which is specified in an Order in Council for the purposes of the definition of ***exhibition roll date*** under the **Local Government Act 1989**;

S. 3 def. of ***exhibition roll date*** inserted by No. 109/2003 s. 94.

general election means an election for all of the members of the Council;

Lord Mayor means the Lord Mayor of the City of Melbourne;

Privacy Commissioner means the Privacy Commissioner appointed under the **Information Privacy Act 2000**;

S. 3 def. of ***Privacy Commissioner*** inserted by No. 109/2003 s. 94.

S. 3 def. of
*rateable
property*
inserted by
No. 109/2003
s. 94,
amended by
No. 35/2008
s. 39.

rateable property means an occupancy which is separately valued under section 13DC of the **Valuation of Land Act 1960** and is rateable land but does not include an occupancy that is used, or is intended to be used, for the sole purpose of—

- (a) parking a single *motor vehicle* within the meaning of section 3(1) of the **Road Safety Act 1986**; or
- (b) mooring a single *vessel* within the meaning of section 3(1) of the **Marine Act 1988**; or
- (c) storage, being a single lockable unit with a floor area not exceeding 25 square metres;

S. 3 def. of
Registrar
inserted by
No. 109/2003
s. 94.

Registrar means—

- (a) the Chief Executive Officer; or
- (b) if the Council has engaged an Electoral Commission to prepare the exhibition roll and the voters' roll, the relevant officer appointed in writing by the Electoral Commission to be the Registrar.

4 Construction of Act

- (1) This Act is to be read as if it formed part of the **Local Government Act 1989**.
- (2) If there is an inconsistency between this Act and the **Local Government Act 1989**, this Act prevails to the extent of the inconsistency.

5 Application of certain provisions of the Local Government Act 1989

- (1) The following provisions of the **Local Government Act 1989** do not apply to the Council or the City of Melbourne: sections 5B, 40(1), 71, 72, 73, 73A, 73B, 74, 74A, 74B, 74C and 220Q(i), (j), (k), (l), (m) and (n). **S. 5(1) amended by Nos 109/2003 s. 95(1)(2), 67/2008 s. 85, 64/2009 s. 62.**
- (2) Schedules 2, 3 and 3A of the **Local Government Act 1989** only apply to the Council and the City of Melbourne as specified in this Act.
- (3) Division 1 of Part 3 of the **Local Government Act 1989** does not apply to the Council or the City of Melbourne. **S. 5(3) inserted by No. 109/2003 s. 95(3).**
- (4) Sections 21, 22, 23, 23A, 24, 24A, 24B and 24C of the **Local Government Act 1989** do not apply to the Council and the City of Melbourne. **S. 5(4) inserted by No. 109/2003 s. 95(3).**
- (5) Divisions 2 and 3 of Part 10 of the **Local Government Act 1989** do not apply to the Council and the City of Melbourne. **S. 5(5) inserted by No. 109/2003 s. 95(3).**

5A Docklands area is part of municipal district

- (1) The municipal district of the City of Melbourne includes the docklands area. **S. 5A inserted by No. 74/2006 s. 4.**
- (2) The addition of the docklands area to the municipal district of the City of Melbourne does not constitute a reconstitution of the Council
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PART 2—THE COUNCIL

6 Constitution of the Council

- (1) The Council consists of—
 - (a) a Lord Mayor; and
 - (b) a Deputy Lord Mayor; and
 - (c) 7 Councillors.
- (2) The City of Melbourne consists of one unsubdivided ward.
- (3) The Lord Mayor and Deputy Lord Mayor are Councillors of the Council.

7 Additional objectives

- (1) The Council has the following objectives—
 - (a) to ensure a proper balance within its community between economic, social, environmental and cultural considerations within the context of the City of Melbourne's unique capital city responsibilities;
 - (b) to develop and implement strategic directions and policies for the City of Melbourne in collaboration with the Government of the State to ensure alignment with that Government's strategic directions and policies for the City of Melbourne as the capital city of the State of Victoria;
 - (c) to co-ordinate with the State and Commonwealth Governments in the planning and delivery of services in the City of Melbourne in which those governments have an interest;

S.7
amended by
No. 109/2003
s. 96(1)(2) (ILA
s. 39B(1)).

(d) to work in conjunction with the Government of the State on projects which that Government or the Council determines are significant to Melbourne.

- (2) This section is to be construed as being in addition to and not in derogation from the local government charter under the **Local Government Act 1989**.

S. 7(2)
inserted by
No. 109/2003
s. 96(2).

8 Meetings between the State and the Council

- (1) The Premier, or his or her nominee, may convene meetings with the Council to consider any matter that, in the opinion of the Premier (or the nominee), is of significance to the Government of the State and is relevant to achieving the objectives of the City of Melbourne as the capital city of the State of Victoria.
- (2) Without limiting subsection (1), matters of significance may include major building or infrastructure projects, and social and environmental policies that contribute to the development of the City of Melbourne as a liveable and competitive city.
- (3) The Lord Mayor and the Deputy Lord Mayor are to represent the Council at any meeting convened under this section.
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PART 3—ELECTIONS

Division 1—Voters and voters' rolls

S. 9
substituted by
No. 109/2003
s. 97.

9 Entitlements

- (1) A person can only be enrolled on the voters' roll if—
 - (a) the person has an entitlement to be enrolled without application as at the entitlement date; or
 - (b) the person is entitled to apply to be enrolled and the application—
 - (i) complies with subsection (2); and
 - (ii) is accepted in accordance with this Division; or
 - (c) the person is appointed to vote on behalf of a corporation and the application for appointment—
 - (i) complies with subsection (2); and
 - (ii) is accepted in accordance with this Division.
 - (2) An application must—
 - (a) be in writing;
 - (b) contain the details required by the regulations;
 - (c) be delivered to the Council office by 4 p.m. on the entitlement date.
 - (3) Unless section 9J applies, enrolment under an application referred to in section 9B has effect from the next entitlement date after it is accepted and continues in force until the day before the subsequent entitlement date for a general election.
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- (4) Unless section 9J applies, an appointment made by a corporation under section 9 as in force before the commencement of section 97 of the **Local Government (Democratic Reform) Act 2003** of a director or company secretary to represent the corporation continues in force subject to sections 9C and 9G.

9A Persons entitled to be enrolled without application

S. 9A
inserted by
No. 109/2003
s. 97.

- (1) A person who on the entitlement date would be an elector in respect of an address in the municipal district if a roll of electors for the Legislative Assembly was compiled from the register of electors, is entitled without application to be enrolled on the voters' roll in respect of that address.
- (2) Despite subsection (1), a person who—
- (a) will attain 18 years of age on or before election day; and
 - (b) had the person been not less than 18 years of age on the entitlement date would be an elector in respect of an address in a ward if a roll of electors for the Legislative Assembly was compiled from the register of electors—
- is entitled without application to be enrolled on the voters' roll in respect of that address.
- (3) A person who on the entitlement date—
- (a) is not a person referred to in subsection (1); and
 - (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of 18 years on or before election day; and
 - (c) is the owner of any rateable property in the municipal district whether solely or jointly with any other person or persons; and
-

s. 9B

S. 9A(3)(d)
amended by
No. 35/2008
s. 40.

(d) is not a resident of the municipal district—

is entitled without application to be enrolled on the voters' roll in respect of that rateable property.

- (4) For the purposes of subsection (3), only 2 joint owners are entitled to be enrolled in respect of any 1 rateable property.
- (5) A person who on the entitlement date—
- (a) is not a person referred to in subsection (1) or (3); and
 - (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of 18 years on or before the election day; and
 - (c) is the occupier of any rateable property, whether solely or jointly with any other person or persons; and
- (d) is not a resident of the municipal district—

S. 9A(5)(d)
amended by
No. 35/2008
s. 40.

is entitled without application to be enrolled on the voters' roll in respect of that rateable property.

- (6) For the purposes of subsection (5), only 2 joint occupiers are entitled to be enrolled in respect of any rateable property.

S. 9B
inserted by
No. 109/2003
s. 97.

9B Persons entitled to apply to be enrolled

- (1) A person who on the entitlement date—
- (a) is not a person referred to in section 9A; and
 - (b) is not less than 18 years of age or is less than 18 years of age but will attain the age of 18 years on or before election day; and

(c) is an owner or occupier of any rateable property in the municipal district—

is entitled to apply to be enrolled on the voters' roll in respect of that rateable property.

- (2) For the purposes of section 9A(3) and subsection (1), only 2 joint owners are entitled to be enrolled in respect of any 1 rateable property.
- (3) For the purposes of section 9A(5) and subsection (1), only 2 joint occupiers are entitled to be enrolled in respect of any rateable property.

9C Corporations

(1) If on the entitlement date—

- (a) a corporation is the owner or occupier of any rateable property in the municipal district; or
- (b) the joint owners or joint occupiers of any rateable property in the municipal district consist of corporations or a combination of people and corporations (of at least 1 person and 1 corporation)—

the corporation or the joint owners or joint occupiers may appoint 2 people to represent it or them at Council elections to vote on its or their behalf.

- (2) A corporation may only exercise the right of entitlement conferred by subsection (1) once, regardless of how many rateable properties it owns or occupies or jointly owns or occupies in the municipal district.
- (3) A person can not be appointed to represent a corporation unless the person is a director or company secretary (however styled) of the corporation.

S. 9C
inserted by
No. 109/2003
s. 97.

S. 9C(3)
amended by
No. 35/2008
s. 41.

s. 9D

S. 9D
inserted by
No. 109/2003
s. 97.

9D Procedure in relation to representatives of corporations

S. 9D(2)
amended by
No. 35/2008
s. 42(1)(2).

S. 9D(3)(a)
amended by
No. 35/2008
s. 42(2).

S. 9D(3)(b)
amended by
No. 35/2008
s. 42(3).

- (1) This section applies if a corporation is the sole owner or occupier of any rateable property in the municipal district and the Chief Executive Officer has not received by 4 p.m. on the entitlement date notice under section 9C that the corporation has appointed 2 representatives who are eligible to be enrolled.
- (2) If the corporation has validly appointed 1 representative, the Chief Executive Officer must enrol as a representative of the corporation, the company secretary (however styled) of the corporation whose name appears first in an alphabetical list of the company secretaries (however styled) of the corporation is prepared.
- (3) If the corporation has not validly appointed any representatives, the Chief Executive Officer must enrol as representatives of the corporation, the first 2 of the following—
 - (a) the company secretaries (however styled) of the corporation (to be taken in alphabetical order);
 - (b) the directors (however styled) of the corporation (to be taken in alphabetical order).
- (4) Despite subsections (2) and (3), if a person required to be enrolled as a representative of the corporation by applying those subsections is otherwise entitled to be enrolled, the Chief Executive Officer must not enrol that person as a representative of that corporation under this section.

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- (5) For the purposes of subsections (2) and (3), the Chief Executive Officer may use the most recent information that is available after the exhibition roll date from the Australian Securities and Investments Commission concerning the name, address and age of the persons specified in those subsections.
 - (6) The Chief Executive Officer must advise the corporation in writing of any person who has been enrolled as a representative of the corporation under this section.

9E Limitations on right of entitlement

S. 9E
inserted by
No. 109/2003
s. 97.

- (1) A person or corporation is not entitled to elect which right of entitlement conferred by section 9A(1), 9A(3), 9A(5), 9B or 9C(1) to exercise.
- (2) Despite anything to the contrary in this Part, a person is only entitled to vote once at any election for the Lord Mayor or Deputy Lord Mayor and once at any election for the other Councillors, regardless of how many different entitlements the person may have.

9F Procedure if there are more than 2 non-resident owners or occupiers

S. 9F
inserted by
No. 109/2003
s. 97.

- (1) For the purposes of section 9A(3) or 9A(5), if it appears from the Council records that there are more than 2 owners or more than 2 occupiers of any rateable property, the Chief Executive Officer must enrol without application the 2 owners or 2 occupiers—
 - (a) whose names appear first on the Council records in relation to that rateable property when those names are read in the order in which they appear in those records; and

s. 9G

- (b) who satisfy the requirements of paragraphs (b), (c) and (d) of section 9A(3) or paragraphs (b), (c) and (d) of section 9A(5) in respect of that rateable property.
- (2) Despite subsection (1), if a written request containing the details required by the regulations is delivered to the Council office by 4 p.m. on the entitlement date requesting that the owner or 2 owners, or occupier or 2 occupiers, of the rateable property specified in the request be enrolled on the voters' roll instead of the owner or 2 owners, or occupier or 2 occupiers, that would otherwise be enrolled by virtue of subsection (1), the Chief Executive Officer must give effect to the request.
- (3) A person enrolled on the voters' roll in accordance with subsection (1) or (2) continues to be enrolled unless a written request containing the details required by the regulations is delivered to the Council office by 4 p.m. on the entitlement date requesting that the owner or occupier specified in the request be enrolled on the voters' roll instead of that person.

S. 9G
inserted by
No. 109/2003
s. 97.

9G Provisions relating to appointments for the purposes of section 9C

- (1) An appointment under section 9C(1) is void if at the time the appointment is made the person appointed—
 - (a) is not a director or company secretary of the corporation; or
 - (b) has not reached 18 years of age and will not attain the age of 18 years on or before election day; or
 - (c) has not consented in writing to be appointed; or

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- (d) is for any other reason already enrolled, or entitled to be enrolled, on the voters' roll in respect of the municipal district.
- (2) An appointment for the purposes of section 9C(1) is revoked if—
- (a) the person appointed—
- (i) ceases to be a director or company secretary of the corporation; or
 - (ii) dies; or
 - (iii) delivers a notice of resignation containing the details required by the regulations to the Council office; or
 - (iv) for any other reason becomes entitled in his or her own right to be enrolled on the voters' roll in respect of the municipal district; or
- (b) notice of revocation containing the details required by the regulations is delivered to the Council office; or
- (c) the entitlement under section 9C(1) ceases to exist.

9H Procedure on receipt of notice of appointment under section 9C

S. 9H
inserted by
No. 109/2003
s. 97.

- (1) On receiving notice of an appointment, the Chief Executive Officer must enrol the person appointed unless he or she believes the person is not entitled to be enrolled.
- (2) If the Chief Executive Officer receives a notice of appointment in respect of any rateable property in respect of which 2 people have already been enrolled—

- (a) if the notice only appoints one person and does not revoke the appointment of either of the 2 people enrolled, the Chief Executive Officer must refuse to enrol the person;
 - (b) if the notice appoints 2 people, the Chief Executive Officer must enrol those 2 people and must remove the names of the 2 people previously enrolled from the voters' list, regardless of whether or not the notice revokes the earlier appointment.
- (3) If the Chief Executive Officer refuses to enrol an appointed person, he or she must advise the person who submitted the notice of appointment of the refusal in writing and give the person the reason for the refusal.

S. 9I
inserted by
No. 109/2003
s. 97.

9I General powers relating to enrolment

- (1) If the Chief Executive Officer refuses an application for enrolment under section 9B, the Chief Executive Officer must advise the applicant that further evidence to his or her satisfaction is required that the applicant is eligible to be enrolled.
- (2) The Chief Executive Officer or a member of the Council staff who is authorised in that behalf by the Chief Executive Officer may either orally or in writing put to any person in occupation of, resident in, in charge of, or any person or corporation who is the owner of, or any person who is the agent for the owner of, any land, questions upon any matter relating to an application and, in the case of questions put in writing, may require the answers to be in writing and signed by the person giving the answers.

- (3) If the Chief Executive Officer refuses to make an enrolment under an application because the Chief Executive Officer is of the opinion that the applicant is not entitled to enrolment the Chief Executive Officer must advise the applicant in writing of the refusal and of the reason for the refusal.

9J Notification of change or cessation of entitlement

S. 9J
inserted by
No. 109/2003
s. 97.

- (1) If there has been a change in the particulars (other than age) or a cessation of entitlement to enrolment on the qualification specified for the purposes of section 9B or 9C(1)—
- (a) the person enrolled, in the case of an enrolment under section 9B; or
 - (b) the corporation on whose behalf a person is enrolled, in the case of an enrolment under section 9C—

must notify the Chief Executive Officer in writing within 1 month of that change or cessation of entitlement.

- (2) Any person or corporation that contravenes subsection (1) is guilty of an offence and liable to a penalty of not more than 3 penalty units.

10 Request that address not be shown

S. 10
substituted by
No. 109/2003
s. 97.

- (1) A person who is entitled to be enrolled on the voters' roll under section 9A(3), 9A(5), 9B or 9C may lodge a request with the Chief Executive Officer in the prescribed form that the address of the person not be shown on any voters' roll if the person considers that having the address on the voters' roll places or would place the personal safety of the person or of members of the person's family at risk.

S. 10(1)
amended by
No. 35/2008
s. 43.

- (2) A request must—
 - (a) give particulars of the relevant risk; and
 - (b) be verified by statutory declaration by the person making the request.
- (3) If the Chief Executive Officer is satisfied that having the address of the person making the request shown on any voters' roll places or would place the personal safety of the person or of members of the person's family at risk, the Chief Executive Officer must ensure that the address of the person is not entered on any voters' roll.
- (4) The Chief Executive Officer must notify the person in writing of a decision to grant or refuse a request made by a person under subsection (1).

S. 11
substituted by
No. 109/2003
s. 98.

11 Victorian Electoral Commission to prepare list

- (1) The Victorian Electoral Commission must within 7 days of the exhibition roll date for a general election supply to the Registrar a voters' list of the persons who appear to the Victorian Electoral Commission to be entitled to be enrolled as at the exhibition roll date under sections 9A(1) and 9A(2), identifying those persons whose request that their principal place of residence not be shown has been accepted.
- (2) The Victorian Electoral Commission must within 7 days of the exhibition roll date for a general election supply to the Registrar a list of the names of persons—
 - (a) who are no longer entitled to be enrolled as an elector for the Council or Assembly by virtue of section 48(2)(d) of the **Constitution Act 1975** since the Victorian Electoral Commission last supplied such a list; and

-
- (b) whose last recorded address was in the municipal district.
- (3) The Chief Executive Officer must supply to the Victorian Electoral Commission within the period specified by the Victorian Electoral Commission any information required by the Victorian Electoral Commission to prepare the voters' list.

11A Chief Executive Officer to prepare voters' list

S. 11A
inserted by
No. 109/2003
s. 98.

- (1) The Chief Executive Officer is responsible for the preparation of the voters' list prepared under this section and the maintenance of any records which may be required to facilitate the preparation of an accurate and complete voters' list.
- (2) The Chief Executive Officer must within 7 days of the exhibition roll date for a general election supply to the Registrar a voters' list for each ward of the persons who appear to the Chief Executive Officer to be entitled to be enrolled as at the exhibition roll date under section 9A(3), 9A(5), 9B(1) and 9C(1) identifying those persons whose request that their address not be shown has been accepted.

11B Registrar to prepare exhibition roll

S. 11B
inserted by
No. 109/2003
s. 98.

- (1) The Registrar must from the voters' lists received under sections 11 and 11A compile the exhibition roll for a general election.
- (2) The registrar must remove from the voters' list received under section 11A—
- (a) any person who appears on the voters' list supplied under section 11(1); and
- (b) any person who appears on the list supplied under section 11(2).
- (3) An exhibition roll may be prepared for each of, or combining, the voters' lists.

s. 11C

S. 11C
inserted by
No. 109/2003
s. 98.

11C Public notification and exhibition

- (1) In the case of a general election, the Chief Executive Officer must on or before the exhibition roll date give a letter to—
 - (a) each person whose name appeared on the last voters' roll by application under section 9B—
 - (i) specifying that the enrolment of the person ceases to have effect on the day before the entitlement date; and
 - (ii) advising that if still entitled, a new application must be made under section 9B; and
 - (iii) enclosing the relevant application form under section 9B;
 - (b) each corporation, joint owner or joint occupier entitled to appoint a representative under section 9C—
 - (i) specifying the names of the existing representatives under section 9C; and
 - (ii) advising of the right to revoke the appointments or to make new appointments for the purposes of section 9C; and
 - (iii) advising of the obligation of the Council under section 9D; and
 - (iv) enclosing the relevant application form under section 9C.
- (2) The Chief Executive Officer must send a letter not later than the date specified for the publishing of the public notice under subsection (4) after the commencement of the **Local Government Amendment (Elections) Act 2008** to—

S. 11C(2)
substituted by
No. 35/2008
s. 44(1).

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- (a) each person who was enrolled on the voters' roll under section 9 for the last general election before the commencement of the **Local Government Amendment (Elections) Act 2008** who will not be entitled to be enrolled on the voters' roll under section 9 for the next general election only because of the amendments made to this Act by the **Local Government Amendment (Elections) Act 2008**; and
- (b) each corporation that has exercised a right of entitlement to appoint a voting representative before the commencement of the **Local Government Amendment (Elections) Act 2008** the appointment of which will cease to have effect only because of the amendments made to this Act by the **Local Government Amendment (Elections) Act 2008**—
- specifying the changes and any relevant entitlements and requirements for enrolment.
- (3) In the case of a by-election or a poll of voters, the exhibition roll to be used for the purposes of this section and section 11D is the voters' roll prepared for the last election.
- (4) The Registrar must at least 10 days before the entitlement date publish a public notice stating—
- (a) the entitlement date;
 - (b) when and where the exhibition roll is available for inspection by members of the public;
 - (c) that a person has a right of objection under this section;
 - (d) when the voters' roll will close;
 - (e) who can apply to enrol;
 - (f) how they can apply to enrol.
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s. 11D

S. 11C(5)
substituted by
No. 35/2008
s. 44(2).

- (5) The Registrar must ensure that the exhibition roll is available for inspection by members of the public for the period of 5 working days ending at 4 p.m. on the entitlement date.
- (6) A person may within the period specified in subsection (5) object in writing to the Registrar on the ground that the exhibition roll contains—
 - (a) an omission, error, misnomer or inaccurate description of any person, place or thing; or
 - (b) the name of a person who has died; or
 - (c) the name of a person who is no longer entitled to be enrolled as an elector for the Council or Assembly by virtue of section 48(2)(d) of the **Constitution Act 1975**.
- (7) The Registrar must as soon as practicable after receiving an objection which relates to the voters' list prepared under section 11 forward the objection to the Victorian Electoral Commission.

S. 11D
inserted by
No. 109/2003
s. 98.

11D Preparation of voters' rolls

- (1) The close of the roll is 4 p.m. on the entitlement date.
- (2) The Registrar must compile a voters' roll containing the prescribed particulars of persons entitled to be enrolled as at the close of the roll from—
 - (a) the exhibition roll; and
 - (b) objections received under section 11C(6); and
 - (c) information received under subsections (3) and (4).
- (3) The Victorian Electoral Commission must provide to the Registrar not later than 5 days after the entitlement date sufficient records in a form specified by the Registrar so as to enable the

exhibition roll to be updated in respect of persons entitled to be enrolled under sections 9A(1) and 9A(2) as at the close of the roll.

- (4) The Chief Executive Officer must provide to the Registrar sufficient information in a form and at the times specified by the Registrar so as to enable the exhibition roll to be updated in respect of persons whose entitlement arises under section 9A(3), 9A(5), 9B, 9C or 9D during the period from the exhibition roll date until the close of the roll.
- (5) The Chief Executive Officer must—
 - (a) in the case of a general election or a by-election, not later than 3 days before nomination day; or
 - (b) in the case of a poll of voters, not later than 14 days after the entitlement date—certify in writing that the voters' roll has been prepared in accordance with this Act.
- (6) The voters' roll signed and certified by the Chief Executive Officer—
 - (a) continues in force until the next voters' roll is prepared; and
 - (b) must not be amended except in accordance with section 11E.

11E Amendment of voters' roll

- (1) A voters' roll may be amended by the Chief Executive Officer if—
 - (a) there is any error in the preparation, printing or copying of the voters' roll; or
 - (b) there is any misnomer or any inaccurate description of any person, place or thing on the voters' roll; or

S. 11E
inserted by
No. 109/2003
s. 98.

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- (c) the Chief Executive Officer is advised in writing by the Victorian Electoral Commission that an objection under section 11C(6) relating to a person enrolled under section 9A(1) or 9A(2) has been determined by the Victorian Electoral Commission to be valid.
- (2) If an amendment under subsection (1)(a) or (1)(b) relates to a person enrolled under section 9A(1) or 9A(2), the Chief Executive Officer must obtain the approval of the Victorian Electoral Commission.
- (3) The amendment of the voters' roll under subsection (1) must be—
- (a) certified by the Chief Executive Officer and the Returning Officer for the election; or
 - (b) if a member of Council staff is the Returning Officer for the election, certified by the Chief Executive Officer and the Victorian Electoral Commission.
- (4) The certification under subsection (3) must—
- (a) be in writing;
 - (b) detail the amendments made;
 - (c) specify the reasons why the amendments were made.

S. 11F
inserted by
No. 109/2003
s. 98.

11F Inspection of voters' roll

The Chief Executive Officer must ensure that the voters' roll certified under section 11D is available for inspection by members of the public for the period—

- (a) beginning on the day that the voters' roll is certified; and
- (b) ending 30 days after election day.

11G Provision of voters' rolls

**S. 11G
inserted by
No. 109/2003
s. 98.**

- (1) The Chief Executive Officer must only provide a copy of a voters' roll to a person in accordance with this section.
- (2) On the request of any candidate for an election, the Chief Executive Officer must provide to the candidate, free of charge, a copy of the voters' roll for the ward or municipal district for which the candidate has nominated in a form determined by the Chief Executive Officer.
- (3) A candidate must—
 - (a) only use a copy of a voters' roll provided under subsection (2) for the purpose of conducting the election campaign; and
 - (b) within the period of 30 days after the day of the election, either destroy the copy of the voters' roll and any copies made from it or return the copy of the voters' roll and any copies made from it to the Chief Executive Officer.

Penalty: 20 penalty units.

- (4) On the request of any person or organisation, the Chief Executive Officer may only provide a copy of the voters' roll to the person or organisation for a permitted purpose—
 - (a) in a form determined by the Chief Executive Officer; and
 - (b) subject to any conditions determined by the Chief Executive Officer; and
 - (c) upon payment of the fee determined by the Chief Executive Officer.

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- (5) A permitted purpose for the purposes of subsection (4) is—
- (a) any purpose connected with an election;
 - (b) any purpose connected with communicating with or surveying constituents in relation to council functions;
 - (c) the conduct of a poll of voters;
 - (d) subject to the approval of the Privacy Commissioner, any other public interest purpose.
- (6) A permitted purpose under paragraph (a), (b) or (c) of subsection (5) is restricted to use by the Council or on behalf of the Council or on behalf of a candidate.
- (7) If a request is for a permitted purpose to which subsection (5)(d) applies, the Chief Executive Officer must forward the request to the Privacy Commissioner.
- (8) The Privacy Commissioner may approve a proposed use as a public interest purpose if the Privacy Commissioner is satisfied that the public interest involved in the proposed use outweighs the public interest in protecting the privacy of personal information in the particular circumstances.
- (9) In considering the request, the Privacy Commissioner may have regard to—
- (a) the public interest involved in the proposed use of the voters' roll; and
 - (b) the public interest in protecting the privacy of personal information; and
 - (c) any alternative sources of information that would be available.
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- (10) If the Privacy Commissioner does not approve a proposed use as a public interest purpose, the Chief Executive Officer must reject the request for a copy of the voters' roll to be used for that purpose.
- (11) A person or organisation that is provided with a copy of the voters' roll under subsection (4) must—
- (a) only use the copy of the voters' roll for the permitted purpose for which the voters' roll was provided; and
 - (b) within the period specified in the conditions subject to which the voters' roll was provided, either destroy the copy of the voters' roll and any copies made from it or return the copy of the voters' roll and any copies made from it to the Chief Executive Officer.

Penalty: 20 penalty units.

- (12) The Chief Executive Officer must not provide particulars of any person whose request that their address not be shown has been accepted.

Division 2—Elections

12 General election

The Council must hold general elections in accordance with Division 4 of Part 3 of the **Local Government Act 1989**.

* * * * *

S. 12
substituted by
No. 109/2003
s. 99.

S. 13
repealed by
No. 109/2003
s. 99.

14 Elections to be held simultaneously

- (1) The election of the Lord Mayor and the Deputy Lord Mayor is to be conducted at the same time as the election of the other Councillors.
- (2) Subsection (1) does not apply to by-elections.

14A Qualification to be a Councillor

- (1) Section 28 of the **Local Government Act 1989** applies as if for subsections (1), (1A) and (1B) there were substituted—

"(1) A person is qualified to be a candidate for the office of Councillor if he or she has an entitlement referred to in section 9 of the **City of Melbourne Act 2001**.

(1A) A person is qualified to become and continue to be a Councillor at a particular time if, were that particular time the entitlement date and a voters' roll prepared, subsection (1) would apply to that person.

(1B) Despite subsection (1), a person who is qualified to be, and is, a Councillor, immediately before the commencement of section 100 of the **Local Government (Democratic Reform) Act 2003** does not cease to be qualified to continue in office for the duration of his or her current term of office only because of the amendment made to the **City of Melbourne Act 2001** by section 100 of the **Local Government (Democratic Reform) Act 2003**."

- (2) Clause 6 of Schedule 2 of the **Local Government Act 1989** applies as if for subclause (3A) there were substituted—

"(3A) The returning officer must reject a nomination from a person who is not enrolled on the voters' roll for the election

S. 14A
inserted by
No. 109/2003
s. 100.

unless the nomination is accompanied by a statutory declaration stating that the person is entitled to be enrolled being an entitlement other than under section 9A(1) or 9A(2)."

15 Joint nominations for Lord Mayor and Deputy Lord Mayor

- (1) A candidate for the office of Lord Mayor or Deputy Lord Mayor at a general election must nominate for the office jointly with another person.
- (2) The notice of candidature must specify which of the 2 candidates nominating is seeking election as Lord Mayor and which of the candidates is seeking election as Deputy Lord Mayor.
- (3) A person may only nominate once for election either to the office of Lord Mayor, or to the office of Deputy Lord Mayor, at an election.
- (4) The returning officer must reject any notice of candidature that does not comply with this section.
- (5) If a person nominates for election—
 - (a) to both the office of Lord Mayor and the office of Deputy Lord Mayor; or
 - (b) to the office of Lord Mayor more than once; or
 - (c) to the office of Deputy Lord Mayor more than once—

the returning officer must reject any notice of candidature in relation to the person other than the first valid notice of candidature received by the returning officer.

16 Candidates may only stand for one position

- (1) A person who is a candidate for election as the Lord Mayor or the Deputy Lord Mayor is not eligible to be a candidate for election as a Councillor if the elections are to be conducted at the same time.
- (2) If a person has nominated as a candidate for election as Lord Mayor or Deputy Lord Mayor and also for election as a Councillor at an election that is to be conducted at the same time as the other election, the returning officer must reject any notice of candidature in relation to the person other than the first valid notice of candidature received by the returning officer.
- (3) This section does not prevent a Councillor nominating as a candidate for election as the Lord Mayor or the Deputy Lord Mayor at a by-election for either of those offices, nor does it require that a Councillor resign from office if he or she is a candidate for either of those offices at a by-election.
- (4) If a Councillor is elected as the Lord Mayor or Deputy Lord Mayor at a by-election, the Councillor goes out of office as a Councillor referred to in section 6(1)(c) on the declaration of the result of the by-election.

17 Senate-style ballot-paper to be used for Councillor elections

Schedule 1 applies to a general election of the Councillors referred to in section 6(1)(c).

18 How votes to be counted

- (1) Part 3 of Schedule 3 of the **Local Government Act 1989** applies to the election of the Lord Mayor and the Deputy Lord Mayor—

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- (a) as if each pair of candidates standing jointly for the positions was a single candidate; and
- (b) as if there was no reference to "only 1 Councillor".
- (2) Schedule 2 and Parts 1, 2 and 5 of Schedule 3 of the **Local Government Act 1989** also apply to the election of the Lord Mayor and the Deputy Lord Mayor.
- (3) Part 4A of Schedule 3 of the **Local Government Act 1989** applies to the election of the Councillors referred to in section 6(1)(c).
- (4) On the determination of the successful pair of candidates under subsection (1), the returning officer must declare elected—
- (a) as Lord Mayor the member of the pair who nominated for the office of Lord Mayor; and
- (b) as Deputy Lord Mayor the member of the pair who nominated for the office of Deputy Lord Mayor.
- (5) If the application of section 37A of the **Local Government Act 1989** does not result in the filling of all the vacancies in the offices of Councillors referred to in section 6(1)(c)—
- (a) in the case of a single vacancy to be filled, Schedule 2 and Parts 1, 2, 3 and 5 of Schedule 3 of the **Local Government Act 1989** apply to the by-election to fill the vacancy;
- (b) if there is more than 1 vacancy to be filled, Schedule 1 applies to the by-election to fill the vacancies.

S. 18(5)
amended by
No. 109/2003
s. 104(a).

19 Compulsory voting

- (1) Except as is provided in the regulations under the **Local Government Act 1989**, it is compulsory for a person who is enrolled on the voters' roll in respect of the City of Melbourne to vote—
 - (a) at any election for the Lord Mayor or the Deputy Lord Mayor; and
 - (b) at any election for a Councillor or Councillors.
- (2) A person must vote as required by subsection (1).
Penalty: 1 penalty unit.
- (3) If an election in respect of the Lord Mayor or the Deputy Lord Mayor and in respect of a Councillor or Councillors is held on the same day, a person who fails to vote in both elections is only guilty of one offence under subsection (2).
- (4) If one or both of the representatives appointed by a corporation fail to vote at an election—
 - (a) the corporation is guilty of an offence against subsection (2);
 - (b) the representative is, or the representatives are, not guilty of an offence against subsection (2).
- (5) A corporation is not guilty of an offence under subsection (2) in respect of the failure to vote of a deemed representative if it did not receive a notice under section 9D(6) in respect of the enrolment of the representative before the date of the election.
- (6) Sections 40(2) to (4) of the **Local Government Act 1989** apply as if—
 - (a) an offence under subsection (2) was an offence under section 40(1A) of that Act; and

S. 19(5)
amended by
No. 109/2003
s. 101.

S. 19(6)
amended by
No. 79/2006
s. 85.

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- (b) a reference to a person in section 40(3) of that Act included a reference to a corporation.
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PART 4—COUNCIL ADMINISTRATION

20 Precedence of Lord Mayor

- (1) The Lord Mayor takes precedence at all municipal proceedings within the City of Melbourne.
- (2) The Lord Mayor must chair all meetings of the Council at which he or she is present.
- (3) If the Lord Mayor is absent from a meeting of the Council, the Deputy Lord Mayor must chair the meeting if he or she is present.
- (4) If both the Lord Mayor and the Deputy Lord Mayor are absent from a meeting of the Council, the Councillors who are present at the meeting must appoint one of their number to chair the meeting.

21 Reference to mayor includes Lord Mayor

For the purposes of this Act, a reference to a mayor in the **Local Government Act 1989** is to be read as including a reference to the Lord Mayor.

22 Deputy Lord Mayor

- (1) The Deputy Lord Mayor must act as the Lord Mayor during any period in which—
 - (a) the office of the Lord Mayor is vacant; or
 - (b) the Lord Mayor is suspended or required to take leave of absence under the **Local Government Act 1989**.

S. 22(1)(b)
substituted by
No. 67/2008
s. 86(1).

S. 22(1A)
inserted by
No. 67/2008
s. 86(2).

- (1A) The Deputy Lord Mayor must also act as the Lord Mayor during any period in which the Lord Mayor is absent from the City of Melbourne or is otherwise unable to carry out the duties of office.

- (2) In acting as Lord Mayor, the Deputy Lord Mayor may perform any function, or exercise any power, conferred on the Lord Mayor.

23 Term of office of Lord Mayor and Deputy Lord Mayor

- (1) If an election for Lord Mayor is held at which the current holder of the office was not a candidate for the office, or was an unsuccessful candidate, the office of Lord Mayor becomes vacant at midday on the day after the public declaration by the returning officer of the result of the election.
- (2) If an election for Deputy Lord Mayor is held at which the current holder of the office was not a candidate for the office or was an unsuccessful candidate, the office of Deputy Lord Mayor becomes vacant at midday on the day after the public declaration by the returning officer of the result of the election.
- (3) The office of Lord Mayor or Deputy Lord Mayor also becomes vacant if the person holding the office—
- (a) dies or ceases to be eligible to be a Councillor; or
 - (b) delivers a signed notice of resignation to a Council meeting or to the Chief Executive Officer; or
 - (c) is ousted from office by the Supreme Court; or
 - (d) is disqualified from holding the office following a finding made by VCAT of serious misconduct or gross misconduct by the Lord Mayor or Deputy Lord Mayor under section 81K of the **Local Government Act 1989**.

S. 23(3)(c)
amended by
No. 67/2008
s. 87(1)(a).

S. 23(3)(d)
inserted by
No. 67/2008
s. 87(1)(b).

S. 23(4)
inserted by
No. 67/2008
s. 87(2).

(4) If VCAT makes a finding of serious misconduct or gross misconduct by the Lord Mayor of the City of Melbourne under section 81K of the **Local Government Act 1989**, the Lord Mayor is disqualified from holding the office of Lord Mayor from the date of the finding and for the remainder of the term of office unless VCAT otherwise orders.

S. 23(5)
inserted by
No. 67/2008
s. 87(2).

(5) If VCAT makes a finding of serious misconduct or gross misconduct by the Deputy Lord Mayor of the City of Melbourne under section 81K of the **Local Government Act 1989**, the Deputy Lord Mayor is disqualified from holding the office of Deputy Lord Mayor from the date of the finding and for the remainder of the term of office unless VCAT otherwise orders.

24 Filling of vacancies

S. 24(1)
amended by
Nos 109/2003
s. 102, 67/2008
s. 88.

- (1) If the office of Lord Mayor or Deputy Lord Mayor becomes vacant 6 months or more before a general election is due, an election to fill the vacancy must be held on a Saturday to be appointed by the Minister under section 38 of the **Local Government Act 1989**.
- (2) If the office of Lord Mayor or Deputy Lord Mayor becomes vacant less than 6 months before a general election is due, it is not necessary to hold an election to fill the vacancy.
- (3) In the circumstances specified in subsection (2)—
 - (a) if the office of the Lord Mayor becomes vacant, the Deputy Lord Mayor becomes the Lord Mayor on the passing of a resolution by the Council that an election to fill the vacancy not be held; and
 - (b) if the office of the Deputy Lord Mayor becomes vacant, the Council may appoint a Councillor to fill the vacancy; and

- (c) if the Council does so, the subsequent vacancy in the office of the Councillor appointed is to be filled in accordance with Schedule 3A and section 37A(4) of the **Local Government Act 1989**.

25 Appointment of acting Deputy Lord Mayor

- (1) This section applies if the office of the Deputy Lord Mayor becomes vacant or the Deputy Lord Mayor is acting as Lord Mayor under section 22(1) and either—
- (a) an election is to be held to fill the vacancy; or
 - (b) it is not necessary to hold an election to fill the vacancy and the Council has not appointed a Councillor to fill the vacancy.
- (2) The Council may appoint a Councillor to act in the office until a person is elected or appointed to the office, or for any shorter specified period.
- (3) In acting as Deputy Lord Mayor, the Councillor may perform any function, or exercise any power, conferred on the Deputy Lord Mayor.

S. 25(1)
amended by
No. 67/2008
s. 89.

25A Delegation to Lord Mayor

The Council may by instrument of delegation delegate to the Lord Mayor a power, duty or function of the Council specified in the instrument relating to—

- (a) the appointment of Councillors to chair committees;
- (b) the appointment of Councillors to represent the Council on external organisations, committees and working parties;
- (c) travelling arrangements relating to Councillors;

S. 25A
inserted by
No. 109/2003
s. 103.

- (d) expenses incurred by Councillors in the course of their duties.

26 Allowances

- (1) The Council must pay to its Councillors the allowance specified in any Order in Council made for the purposes of this section from time to time.
- (2) The Order in Council may specify that the Lord Mayor and the Deputy Lord Mayor are to receive a higher allowance than that specified for other Councillors.
- (3) The Lord Mayor and the Deputy Lord Mayor are not entitled to receive an allowance as a Councillor if he or she is receiving an allowance as Lord Mayor or Deputy Lord Mayor.
- (4) In paying an allowance under this section, the Council must make the payment in the manner specified in the Order in Council that specified the amount of the allowance.
- (5) Only one amount may be specified for Councillors.

S. 26A
inserted by
No. 67/2008
s. 90.

26A Allowance reviews by Minister

- (1) The Minister must, at least once every year, review the amounts of Councillor, Lord Mayoral and Deputy Lord Mayoral allowances.
- (2) The Minister must have regard to movements in the levels of remuneration of executives within the meaning of the **Public Administration Act 2004** when reviewing the amounts of the Councillor, Lord Mayoral and Deputy Lord Mayoral allowances under subsection (1).

- (3) If a review conducted by the Minister under this section results in a finding that Councillor, Lord Mayoral and Deputy Lord Mayoral allowances require alteration, the Minister must specify by notice in the Government Gazette the new allowance amounts.

27 General provisions concerning allowances

- (1A) Subject to subsection (1), the Council must pay a Councillor, the Lord Mayoral and Deputy Lord Mayoral allowances as specified in the most recent of—

S. 27(1A)
inserted by
No. 67/2008
s. 91(1).

- (a) an Order in Council made under section 26;
or
(b) a Minister's notice made under section 26A.

- (1) The Council does not have to pay an allowance under section 26 to a Councillor who does not wish to receive it.

- (2) A person is only entitled to receive an allowance under section 26 while he or she holds the office for which it is payable.

- (3) A person elected to be Lord Mayor, Deputy Lord Mayor or a Councillor is entitled to receive the appropriate allowance for that office from the date the person takes the oath of office under section 63 of the **Local Government Act 1989**.

S. 27(3)
inserted by
No. 67/2008
s. 91(2).

- (4) A person who becomes Lord Mayor, acting Lord Mayor or Deputy Lord Mayor as a result of—

S. 27(4)
inserted by
No. 67/2008
s. 91(2).

- (a) a resolution by the Council under section 24(3)(a) that an election not be held to fill the vacancy of Lord Mayor; or
(b) an appointment by the Council under section 24(3)(b) to fill the vacancy of Deputy Lord Mayor; or

(c) a circumstance specified by section 22(1)—
the Lord Mayor, acting Lord Mayor or Deputy
Lord Mayor is entitled to receive the appropriate
allowance for that office from the date of the
resolution, appointment or commencement of the
circumstance.

S. 27AA
inserted by
No. 67/2008
s. 92.

**27AA Councillor taken to not have conflict of interest for
purposes Division 1A of Part 4 of the Local
Government Act 1989**

For the purposes of Division 1A of Part 4 of the
Local Government Act 1989, a Councillor is
taken to not have a conflict of interest if the matter
relates to—

- (a) making an appointment; or
- (b) passing a resolution; or
- (c) delegating by instrument a power, duty or
function—

under this Part.

PART 4A—DOCKLANDS CO-ORDINATION COMMITTEE

Pt 4A
(Heading and
ss 27A-27K)
inserted by
No. 74/2006
s. 5.

27A Definitions

S. 27A
inserted by
No. 74/2006
s. 5.

(1) In this Part—

Authority nominee means a member of the
Committee nominated under section
27C(1)(a)(ii);

Committee means the Docklands Co-ordination
Committee established by the Council under
this Part;

Co-ordination area means—

- (a) any land reserved under section 66
or 67 of the **Docklands Act 1991** of
which the Council is the committee of
management under the **Crown Land
(Reserves) Act 1978**; and
- (b) any land added to that area by Order
under subsection (2)—

but does not include any land removed from
the area by Order under subsection (2);

Council nominee means a member of the
Committee nominated under section
27C(1)(a)(i);

Docklands Minister means the Minister for the
time being administering the **Docklands Act
1991**;

Ministerial appointee means a member of the
Committee appointed under section
27C(1)(b);

place management services means services that relate to—

- (a) site presentation;
 - (b) waterways management;
 - (c) safety and security;
 - (d) the marketing and promotion of the docklands area;
 - (e) the attraction and staging of events in the docklands area;
 - (f) any other prescribed matter.
- (2) The Governor in Council, on the joint recommendation of the Minister and the Docklands Minister, may by Order add any Crown land in the docklands area to, or remove any Crown land in the docklands area from, the Co-ordination area.
- (3) An Order under subsection (2) must be published in the Government Gazette.

S. 27B
inserted by
No. 74/2006
s. 5.

27B Establishment of the Docklands Co-ordination Committee

- (1) The Council must establish a committee to be called the Docklands Co-ordination Committee.
- (2) The Committee is deemed to be a Special Committee established under section 86 of the **Local Government Act 1989**.
- (3) Despite subsection (2), sections 86(2), 87(2), 87(3), 87(4), 87(8), 90(1)(d), 90(1)(e) and 91(3) of the **Local Government Act 1989** do not apply to the Committee.

S. 27B(3)
amended by
No. 64/2009
s. 63.

27C Constitution of the Committee

S. 27C
inserted by
No. 74/2006
s. 5.

- (1) The Docklands Co-ordination Committee consists of up to 7 members of whom—
 - (a) 6 must be persons appointed by the Council of whom—
 - (i) 3 must be persons nominated by the Council; and
 - (ii) 3 must be persons nominated by the Authority; and
 - (b) 1, if appointed, must be a person appointed jointly by the Minister and the Docklands Minister.
- (2) Nothing in subsection (1) requires a person to be appointed under subsection (1)(b).
- (3) An appointment under subsection (1)(b) must specify the term of appointment (not exceeding 4 years) of the person appointed.
- (4) A person appointed under subsection (1) is eligible for reappointment.

27D Deputy members

S. 27D
inserted by
No. 74/2006
s. 5.

- (1) The Council may appoint as a deputy member for each member appointed by the Council a person nominated in the same manner as the member appointed by the Council for whom he or she is deputy.
 - (2) The Minister and the Docklands Minister may jointly appoint a person as a deputy member for the Ministerial appointee.
 - (3) A deputy member appointed under subsection (1) or (2) may, in the absence of the member, attend a meeting of the Docklands Co-ordination Committee in place of the member and perform any function at that meeting that the member could have performed.
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s. 27E

S. 27E
inserted by
No. 74/2006
s. 5.

27E Removal from office

- (1) The Council may at any time remove a member of the Committee who is a Council nominee or a deputy of that member from office.
- (2) The Council must at the request of the Authority remove a member who is an Authority nominee or a deputy of that member from office.
- (3) The Minister and the Docklands Minister may jointly remove a member who is a Ministerial appointee or the deputy of that member from office.

S. 27F
inserted by
No. 74/2006
s. 5.

27F Chairperson

- (1) The person who is the Ministerial appointee (if any) is to be the Chairperson at a meeting of the Docklands Co-ordination Committee at which he or she is present.
- (2) For each meeting at which the member who is the Ministerial appointee (if any) is not present, the role of Chairperson is to alternate between a member nominated by the Council nominees and a member nominated by the Authority nominees on the Committee beginning with a member nominated by the Council nominees.

S. 27G
inserted by
No. 74/2006
s. 5.

27G Quorum

5 members of the Docklands Co-ordination Committee constitute a quorum.

S. 27H
inserted by
No. 74/2006
s. 5.

27H Voting

- (1) At a meeting of the Docklands Co-ordination Committee at which the Ministerial appointee presides—
 - (a) the Ministerial appointee (if any) has a casting as well as deliberative vote; and
 - (b) a question before the meeting is to be determined by a majority of votes.

- (2) If at a meeting of the Committee a person other than the Ministerial appointee (if any) presides, a question before the meeting is to be determined by a unanimous vote of the members present at the meeting.
- (3) Subject to this Part, the conduct of meetings of the Committee is in its discretion.

27I Delegation

S. 27I
inserted by
No. 74/2006
s. 5.

- (1) The Council must, in accordance with the regulations, delegate to the Docklands Co-ordination Committee such of its functions in relation to the monitoring of place management services in the Co-ordination area as are specified in the regulations.
- (2) The Council must not amend, revoke or impose conditions on a delegation made under subsection (1) except in accordance with the regulations.
- (3) The carrying out by the Committee of functions delegated under this section is deemed for the purposes of this Act and the **Local Government Act 1989** to have been carried out by the Council.
- (4) A delegation of a function under this section does not prevent the Council from carrying out the function.
- (5) Section 42A of the **Interpretation of Legislation Act 1984** does not apply to a delegation under this section.

27J Functions

S. 27J
inserted by
No. 74/2006
s. 5.

The functions of the Docklands Co-ordination Committee are to—

- (a) approve any place management plan prepared for the Co-ordination area in accordance with the regulations; and

s. 27K

- (b) approve any finance and infrastructure plan prepared for the Co-ordination area in accordance with the regulations; and
- (c) provide advice, guidance and recommendations to the Council about the provision of place management services in the Co-ordination area; and
- (d) carry out any function in relation to the monitoring of place management services that is delegated to the Committee under section 27I.

S. 27K
inserted by
No. 74/2006
s. 5.

27K Council and Authority may enter into an agreement

- (1) The Council and Authority may enter into an agreement in relation to the provision and co-ordination of place management services in the Co-ordination area.
- (2) An agreement made under this Part must—
 - (a) provide for the prescribed matters; and
 - (b) not be inconsistent with this Part or the regulations.

PART 5—OTHER MATTERS

28 Differential rates

- (1) Despite anything to the contrary in section 161(1)(a) of the **Local Government Act 1989**, the Council may raise any general rates by the application of a differential rate even if it does not use the capital improved value system of valuing land.
- (2) If the Council uses the net annual value system of valuation and declares a differential rate, the highest differential rate must be no more than 2 times the lowest differential rate.

S. 28(1)
amended by
No. 29/2005
s. 3(1).

S. 28(2)
substituted by
No. 29/2005
s. 3(2).

PART 6—REGULATIONS

29 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may—
 - (a) make provision for the form of ballot-paper to be used in elections for the Lord Mayor and the Deputy Lord Mayor; and
 - (b) modify the effect of any provision of Schedule 2 or 3 of the **Local Government Act 1989**, or of any regulations made under that Act, as it applies to any election conducted under this Act;
 - (c) make any provision needed to ensure that an election can be conducted by postal voting.
- (3) Section 243 of the **Local Government Act 1989** applies to regulations made under this section as if they had been made under that Act.

PART 7—AMENDMENTS TO OTHER ACTS, REPEALS AND SAVINGS PROVISIONS

* * * * *

S. 30
repealed by
No. 109/2003
s. 104(b).

31 Repeal of City of Melbourne Act 1993

- (1) The **City of Melbourne Act 1993** is repealed.
- (2) All things and circumstances created by or under that Act that were in force or operating under that Act immediately before the repeal of that Act continue to have the same status, operation and effect as if that Act had not been repealed.
- (3) Without limiting subsection (2), the repeal of that Act does not disturb the continuity of status, operation or effect of any Act, regulation, rule, local law, order, instrument, title, planning scheme, liability or right.

32 Orders to continue

- (1) Any Order in Council that was made under section 74A of the **Local Government Act 1989** and that was in force immediately before the repeal of that section continues in force as if it had been made under section 26.

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S. 32(2)
repealed by
No. 64/2009
s. 64.

SCHEDULES

SCHEDULE 1

PROVISIONS WITH RESPECT TO HOLDING AN ELECTION OF COUNCILLORS

1 Application of this Schedule

- (1) This Schedule applies to any election at which 2 or more Councillors (other than the Lord Mayor and the Deputy Lord Mayor) are to be elected to the Council.
- (2) Schedule 2 and Parts 2 and 5 and clauses 1(3) and 2 of Schedule 3 of the **Local Government Act 1989** and any regulations made under that Act relating to elections also apply to the election.

2 Definitions

- (1) In this Schedule—

name of a registered political party includes the abbreviation or initials (if any) of the name of the party entered in the Register of **Political Parties under the Electoral Act 2002**;

nomination day means the last day on which notices of candidature may be received;

Part 4A means Part 4A of Schedule 3 of the **Local Government Act 1989**;

registered officer, in relation to a registered political party, means the registered officer of a registered political party within the meaning of the **Electoral Act 2002**;

registered political party has the meaning it has in the **Electoral Act 2002**;

Sch. 1 cl. 2(1)
amended by
No. 23/2002
s. 188.

voting ticket has the meaning set out in clause 5(1).

- (2) In determining when the 2nd or 4th days after the nomination day occur, any holiday (as defined by section 44(4) of the **Interpretation of Legislation Act 1984**) that occurs after the nomination day is not to be counted as a day.

3 Grouping of candidates

- (1) Two or more candidates may make a joint request that their names be grouped on the ballot-paper.
- (2) The request—
- (a) must be in writing and must be signed by the candidates; and
 - (b) must specify the order in which the names are to appear within the group; and
 - (c) must be delivered to the returning officer before 4 p.m. on the second day after nomination day.
- (3) A candidate's name may not be included in more than one group.

4 Group name and order of candidates on ballot-paper

- (1) A request under clause 3 must also specify the name under which the candidates wish to be grouped.
- (2) If, in the opinion of the returning officer, the name is that of, or implies an association with, a registered political party, the returning officer must not print the name on the ballot-paper unless the candidates provide evidence that they have been authorised by the registered officer of the party to use that name.

Sch. 1

- (3) If the name comprises more than 6 words (or letters in the case of a name that consists only of abbreviations), the returning officer must not print more than the first 6 words (or letters) of the name on the ballot paper.
- (4) If, in the opinion of the returning officer, a proposed group name is offensive or misleading, the returning officer—
 - (a) must not print that name on the ballot-paper; and
 - (b) must advise the candidates of his or her opinion and ask the candidates to submit an alternative name.
- (5) If candidates fail to submit a suitable alternative name to the returning officer by the time specified by the returning officer, the request under clause 3 lapses.
- (6) If—
 - (a) candidates wish to have their names grouped on the ballot-paper; and
 - (b) they have been endorsed for that election by different registered political parties—they may use a composite name formed from the registered names of the registered political parties.
- (7) Subject to subclauses (2), (3) and (4), the returning officer must print on the ballot-paper next to a candidate's name the group name specified under subclause (1), or any valid alternative name submitted in response to a request made under subclause (4)(b).

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- (8) The returning officer must as soon as practicable after 4 p.m. on the 2nd day after the last day on which notices of candidature may be received hold a ballot by lot to determine the order in which the name of each candidate is to appear on the ballot-paper.

5 Voting tickets

- (1) A voting ticket is a document that sets out an order of preference for all the candidates in the election.
- (2) If permitted by clause 6, candidates may apply to the returning officer to register one or 2 voting tickets for the purposes of the election.
- (3) The returning officer must not register a voting ticket—
- (a) if the ticket does not give preference to the candidates applying to register the ticket before it gives preference to any other candidate; or
 - (b) if the order of preference specified in the ticket would result in an informal vote were that order of preference to be applied by a voter to the ballot-paper to be used in the election; or
 - (c) if 2 voting tickets have already been registered on the application of the candidates applying for the registration; or
 - (d) if the application for the ticket does not comply with this Schedule.
- (4) Without limiting the form in which a voting ticket may be expressed, the ticket may be in the form of a completed draft or mock ballot-paper.

- (5) If a voting ticket is, or 2 voting tickets are, registered for the purposes of the election on the application of a group of candidates—
 - (a) a square must be printed on the ballot-paper above the names of those candidates; and
 - (b) if another provision of this Schedule requires the name of a registered political party or another name to be printed next to the names of the candidates on the ballot-paper, that name must also be printed on the ballot-paper next to that square.
- (6) An application for 2 group voting tickets must indicate the order in which the voting tickets are to be displayed for the purposes of clause 7(1).

6 Group voting tickets

- (1) Candidates making a request under clause 3 may apply to register one or 2 group voting tickets for the purposes of the election.
- (2) The application must—
 - (a) be signed; and
 - (b) be lodged with the returning officer after the order of the candidates on the ballot-paper has been determined and before 4 p.m. on the 4th day after the nomination day.
- (3) The application may be signed—
 - (a) if all the members of the group have been endorsed by the same registered political party, by the registered officer of the party; or
 - (b) if the members of the group have been endorsed by different registered political parties, by the registered officers of all those parties; or

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- (c) in a case to which neither paragraph (a) nor paragraph (b) applies, by the candidate whose name first appears in the group on the ballot-paper; or
 - (d) in any case, by a person authorised in writing by all the members of the group to sign such a statement on behalf of the group.
- (4) A copy of any authorisation given for the purposes of subclause (3)(d) must be lodged with the application.

7 Voting tickets to be displayed

- (1) If a voting ticket has been registered for the purposes of the election, the returning officer must cause the ticket to be prominently displayed in a manner determined by the returning officer at each polling place.
- (2) If a group has 2 registered voting tickets, those tickets must be displayed in the order indicated in the application for registration.

8 Ballot-papers

- (1) If at least one voting ticket has been registered for the purposes of the election—
 - (a) the ballot-paper for the election must be in the form of Schedule 2 if there are fewer than 20 groups of candidates; or
 - (b) the ballot-paper for the election must be in the form of Schedule 3 if there are 20 or more groups of candidates.
- (2) If—
 - (a) a valid request for the grouping of candidates' names is received under clause 3; but

Sch. 1 cl. 8(1)
substituted by
No. 35/2008
s. 45(1).

Sch. 1

(b) no voting ticket has been registered for the purposes of the election—

the ballot-paper for the election must be in the form of Schedule 2 with the modifications set out in subclause (5).

(3) If—

(a) no valid request for the grouping of candidates' names is received under clause 3; and

(b) no voting ticket has been registered for the purposes of the election—

the ballot-paper for the election must be in the form of Schedule 2, as modified in the manner specified in subclauses (4) and (5).

(4) The required modifications are—

(a) in the left-most column of the form, the word "DIRECTIONS" must be deleted; and

(b) in the area between the first and second continuous horizontal black lines on the form, all words and expressions must be deleted; and

(c) in the area between the second and third continuous horizontal black lines on the form, the word "OR" and the 2 short horizontal lines above and below that word must be deleted.

(5) In addition, the squares in the area between the second and third continuous horizontal black lines on the form are to be set out continuously in the order determined under subclause (8)(c).

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- (6) For the purposes of subclauses (2) and (3), the remaining directions may be reformatted in any way the returning officer considers to be appropriate and may be accompanied by the heading "Directions".
- (7) The directions in Schedules 2 and 3 have the same force as if they were provisions contained in this Act.
- (8) In printing the ballot-paper—
- (a) the names of candidates by whom requests have been made under clause 3 must be printed in groups on the ballot-paper in accordance with the requests and before the names of candidates who have not made such requests; and
 - (b) the order of the several groups on the ballot-paper must be determined by a ballot by lot conducted by the returning officer; and
 - (c) the order of the names of the candidates whose names are not included in any group must be determined by a ballot by lot conducted by the returning officer.
- (9) Any ballot by lot conducted under subclause (8) must be conducted in accordance with clause 14 of Schedule 2 of the **Local Government Act 1989**.

Sch. 1 cl. 8(7)
amended by
No. 35/2008
s. 45(2).

9 Printing of political party and other names on ballot-papers

The names of registered political parties, composite names and group names must be printed on the ballot-paper in capital letters in type that is uniform in size and style for all the names so printed.

Sch. 1

10 Marking of votes

Sch. 1 cl. 10(1)
amended by
No. 35/2008
s. 46.

- (1) A voter must mark his or her vote on a ballot-paper that is in the form of Schedule 2 or 3 either—
 - (a) by placing the figure 1 in a square (if any) printed in accordance with clause 5(5); or
 - (b) by—
 - (i) placing the figure 1 in the square opposite the name of the candidate for whom he or she votes as his or her first preference; and
 - (ii) placing the figures 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of his or her preference for them.
- (2) For the purposes of this Act, if a voter has placed a tick or a cross in a square printed on a ballot-paper in accordance with clause 5(5), he or she is deemed to have placed the figure 1 in that square.

11 Formal votes according to group voting ticket

Sch. 1 cl. 11(1)
amended by
No. 109/2003
s. 104(c).

- (1) A ballot-paper is not informal by virtue of clause 15(a) if the voter has marked his or her vote on the ballot-paper in accordance with clause 10.
- (2) If a ballot-paper—
 - (a) has been marked in accordance with clause 10(1)(a); and
 - (b) has been marked in accordance with clause 10(1)(b) so that, if it were not marked in accordance with clause 10(1)(a), it would not be informal by virtue of clause 15(a)—

Sch. 1
cl. 11(2)(b)
amended by
No. 109/2003
s. 104(c).

the ballot-paper is, for the purposes of clause 14 and Part 4A, deemed not to have been marked in accordance with clause 10(1)(a).

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- (3) For the purposes of this clause and clause 12 and Part 4A, a voter must not be taken to have marked his or her vote in accordance with clause 10(1)(a) if he or she has placed a preference mark in 2 or more of the squares printed on the ballot-paper in accordance with clause 5(5).
- (4) In this clause, *preference mark* means a tick, a cross or the figure 1.

12 Certain votes with non-consecutive numbers to be formal

- (1) This clause applies if a ballot-paper—
- (a) has the figure 1 in the square opposite to the name of a candidate and does not have that figure in the square opposite to the name of another candidate; and
 - (b) has—
 - (i) in a case where there are more than 9 candidates in the election, in not less than 90% of the squares opposite the names of the candidates, figures in a sequence of consecutive numbers commencing with the figure 1 or figures that with a change to no more than 1 of them would be in such a sequence; or
 - (ii) in any other case, in all the squares opposite the names of candidates or in all those squares except one square that is left blank, numbers in a sequence of consecutive numbers commencing with the figure 1 or figures that with a change to no more than 1 of them would be in such a sequence; and

Sch. 1

Sch. 1
cl. 12(1)(c)
amended by
No. 109/2003
s. 104(c).

(c) but for this subclause, would be informal by virtue of clause 15(a).

(2) The following provisions apply to the ballot-paper—

Sch. 1
cl. 12(2)(a)
amended by
No. 109/2003
s. 104(c).

(a) the ballot-paper is not informal by virtue of clause 15(a); and

(b) the figure 1 is to be taken to express the voter's first preference; and

(c) if the figures in squares opposite the names of candidates are in a sequence of consecutive numbers commencing with the figure 1, the voter is to be taken to have expressed a preference by the other figure, or to have expressed preferences by the other figures, in that sequence; and

(d) the voter is not to be taken to have expressed any other preference.

(3) In considering, for the purposes of this clause, whether numbers are in a sequence of consecutive numbers, any number that is repeated is to be disregarded.

13 Effect of single voting ticket on ballot-paper

For the purposes of Part 4A, if—

(a) a ballot-paper has been marked in accordance with clause 10(1)(a) by a mark having been placed in a square printed above the names of a group of candidates; and

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- (b) the group has only one voting ticket registered for the purposes of the election—

the ballot-paper is deemed to have been marked in accordance with the order of preference set out in that ticket.

14 Effect of 2 voting tickets on ballot-papers

- (1) This clause applies if—

- (a) one or more ballot-papers have been marked in accordance with clause 10(1)(a) by a mark having been placed in a square printed above the names of a group of candidates; and
- (b) the group has 2 voting tickets registered for the purposes of the election.

- (2) For the purposes of Part 4A—

- (a) if the number of ballot-papers is an even number, half of the ballot-papers are deemed to have been marked in accordance with the order of preference set out in one of the tickets and the other half in accordance with the order of preference set out in the other ticket; or
- (b) if the number of ballot-papers is not an even number—
- (i) one of the ballot-papers is deemed to have been marked in accordance with the order of preference set out in whichever of the 2 tickets is drawn by lot in a manner determined by the returning officer, either manually or by computer; and
- (ii) half the remainder (if any) of the ballot-papers are deemed to have been marked in accordance with the order of preference set out in one of the tickets and the other half in accordance with

the order of preference set out in the other ticket.

15 Informal ballot-papers

A ballot-paper must be rejected as informal at the close of the poll—

- (a) subject to clauses 10 and 11, if it has no vote indicated on it, or it does not indicate the voter's first preference for one candidate and the order of his or her preference for all the remaining candidates; or
- (b) if it is not marked in a manner prescribed or allowed by this Act or by a provision of the regulations made under the **Local Government Act 1989** that is not contrary to any provision of this Schedule.

16 Death of a candidate

- (1) This clause applies if a candidate dies after 4 p.m. on the 31st day before election day and before the end of the election day, and the number of candidates remaining is greater than the number of candidates to be elected.
- (2) Despite anything to the contrary in clause 9 of Schedule 2 of the **Local Government Act 1989**, the election is to continue as if the dead candidate had given the returning officer at 4 p.m. on the day the candidate died a valid notice of retirement under clause 8 of that Schedule.
- (3) If it was not practicable to remove the name of a dead candidate from the ballot-paper, the ballot-paper is not informal by reason only of the failure of the voter to place any figure opposite that name, or of any resultant failure to indicate in consecutive order the voter's preferences.

17 Additional information for scrutineers

The returning officer must ensure that scrutineers are given access to the following information during the counting of votes as the information becomes available—

- (a) a record of the preferences on the ballot-papers that have been received by the returning officer and whose details have been stored in the computer (including informal ballot-papers, and formal ballot-papers that are not sequentially numbered); and
- (b) a record of the ballot-papers that are notionally transferred, or exhausted, at each count; and
- (c) a record of the progress of the count of the votes, at each count.

18 Refund to group candidates

- (1) This clause applies if—
 - (a) a candidate is a member of a group of candidates who were grouped on the ballot-paper; and
 - (b) all the members of the group are elected or the members of the group receive more than 4% of the total number of valid first preference votes cast in the election.
- (2) The fee paid for or on behalf of the candidate must be repaid to the candidate on the returning officer certifying that subclause (1) applies to the candidate.

City of Melbourne Act 2001
No. 5 of 2001

Sch. 3

<input type="checkbox"/> 1 3	<input type="checkbox"/> 1 3	...	<input type="checkbox"/> 1 3	<input type="checkbox"/> 1
<input type="checkbox"/> 1 3	<input type="checkbox"/> 1 3	...	<input type="checkbox"/> 1 3	<input type="checkbox"/> 1

- 1 Here insert name of a candidate.
2 Here insert number of vacancies.
3 Here insert name of a registered political party or other group name if applicable.
4 Here insert number of candidates."

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 22 March 2001

Legislative Council: 1 May 2001

The long title for the Bill for this Act was "A Bill to alter the electoral structure of the City of Melbourne, to provide for the direct election of a Lord Mayor and a Deputy Lord Mayor, to facilitate an early election of the members of the Melbourne City Council and for other purposes."

Constitution Act 1975:

Absolute majorities:

Legislative Assembly: 5 April 2001, 3 May 2001

Legislative Council: 3 May 2001

The **City of Melbourne Act 2001** was assented to on 8 May 2001 and came into operation as follows:

Sections 1 and 2 on 9 May 2001: section 2(1); rest of Act on 9 May 2001:
Special Gazette (No. 67) 9 May 2001 page 1.

2. Table of Amendments

This Version incorporates amendments made to the **City of Melbourne Act 2001** by Acts and subordinate instruments.

Electoral Act 2002, No. 23/2002

Assent Date: 12.6.02
Commencement Date: S. 188 on 1.9.02: Government Gazette 29.8.02 p. 2333
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

Local Government (Democratic Reform) Act 2003, No. 109/2003

Assent Date: 9.12.03
Commencement Date: Ss 95(1)(2), 96, 99, 102–104 on 10.12.03: Special Gazette (No. 230) 10.12.03 p. 3; ss 94, 95(3), 97, 98, 100, 101 on 31.12.04: s. 2(4)
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

City of Melbourne (Amendment) Act 2005, No. 29/2005

Assent Date: 21.6.05
Commencement Date: 22.6.05: s. 2
Current State: All of Act in operation

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006

Assent Date: 10.10.06
Commencement Date: Ss 3–5 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

Justice Legislation (Further Amendment) Act 2006, No. 79/2006

Assent Date: 10.10.06
Commencement Date: S. 85 on 1.7.06: s. 2(4)
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

Local Government Amendment (Elections) Act 2008, No. 35/2008

Assent Date: 5.8.08
Commencement Date: Ss 39–48 on 15.8.08: s. 2
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

Local Government Amendment (Councillor Conduct and Other Matters) Act 2008, No. 67/2008

Assent Date: 18.11.08
Commencement Date: Ss 85–92 on 19.11.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **City of Melbourne Act 2001**

City of Melbourne Act 2001
No. 5 of 2001

Endnotes

**Local Government Amendment (Offences and Other Matters) Act 2009,
No. 64/2009**

Assent Date: 17.11.09
Commencement Date: Ss 62–64 on 8.12.09: Special Gazette (No. 455)
8.12.09 p. 1
Current State: This information relates only to the provision/s
amending the **City of Melbourne Act 2001**

Endnotes

3. Explanatory Details

No entries at date of publication.