

**Authorised Version No. 010**  
**Victoria Law Foundation Act 2009**  
**No. 10 of 2009**

Authorised Version incorporating amendments as at  
1 July 2018

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**Authorised Version No. 010**  
**Victoria Law Foundation Act 2009**

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Authorised Version incorporating amendments as at  
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**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purposes**

The main purposes of this Act are—

- (a) to provide for the continuation of the Victoria Law Foundation and the re-enactment with amendments of the laws relating to the governance of the Foundation;
- (b) to repeal the **Victoria Law Foundation Act 1978**.

**2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.
- (2) If this Act does not come into operation before 1 July 2009, it comes into operation on that day.

**3 Definitions**

In this Act—

***Board of Victoria Legal Aid*** means the board of directors of Victoria Legal Aid established under the **Legal Aid Act 1978**;

S. 3 def. of  
*Board of  
Victoria  
Legal Aid*  
inserted by  
No. 15/2018  
s. 49.

S. 3 def. of  
*Courts  
Council*  
inserted by  
No. 15/2018  
s. 49.

***Courts Council*** means the Courts Council  
established under the **Court Services  
Victoria Act 2014**;

***Foundation*** means the Victoria Law Foundation;

***judicial office*** means the office of any of the  
following—

- (a) Judge of the Supreme Court;
- (b) Master or Associate Judge of the  
Supreme Court;
- (c) judge of the County Court;
- (d) master or associate judge of the County  
Court;
- (e) magistrate;
- (f) judge, master, associate judge or  
magistrate of—
  - (i) the High Court of Australia or of a  
court created by the Parliament of  
the Commonwealth; or
  - (ii) a court of a State other than  
Victoria or of the Northern  
Territory or the Australian Capital  
Territory;

***Law Institute*** means Law Institute of Victoria  
Limited A.C.N. 075 475 731;

***lawyer*** means—

- (a) an Australian lawyer; or
- (b) an Australian legal practitioner; or
- (c) a person who holds or has held judicial  
office;

***member*** means a member of the Victoria Law  
Foundation;

S. 3 def. of  
*lawyer*  
amended by  
No. 17/2014  
s. 160(Sch. 2  
item 104).

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***Victorian Bar*** means Victorian Bar Inc, an  
association incorporated under the  
**Associations Incorporation Reform Act  
2012.**

S. 3 def. of  
*Victorian Bar*  
amended by  
No. 20/2012  
s. 226(Sch. 5  
item 24).

## **Part 2—Victoria Law Foundation**

### **4 Continuation of the Victoria Law Foundation**

- (1) There continues to be a body corporate called the Victoria Law Foundation.
- (2) The Foundation—
  - (a) has perpetual succession;
  - (b) must have an official seal;
  - (c) may sue and be sued in its corporate name;
  - (d) is capable of taking, purchasing, leasing, holding, selling, exchanging and disposing of real and personal property for the purposes of this Act;
  - (e) may do and suffer all acts and things which a body corporate may by law do and suffer.
- (3) The official seal of the Foundation must be kept in such custody as the Foundation directs and must not be used except as authorised by the Foundation.
- (4) All courts must take judicial notice of the imprint of the official seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

S. 4A  
inserted by  
No. 15/2018  
s. 50.

### **4A Object of the Foundation**

The object of the Foundation is to contribute to the development of a justice system that meets the legal and related needs of the Victorian community by improving knowledge and information about the Victorian justice system.

## **5 Functions of the Foundation**

The functions of the Foundation are—

- (a) to conduct, commission and disseminate research on the justice system, especially in matters relating to access to justice, legal services and civil justice, including—
  - (i) collecting and analysing justice system data and information; and
  - (ii) developing and applying measures to assess the effectiveness and efficiency of the justice system; and
- (b) to promote and undertake education within Victoria to improve community understanding of the law and the justice system; and
- (c) to educate the legal sector in matters relating to access to justice, including plain language education; and
- (d) to make grants to organisations to fund projects and programs consistent with the functions or object of the Foundation; and
- (e) to publish or subsidise the publication of material relating to, resulting from, or connected with carrying out the functions or object of the Foundation.

**S. 5**  
**substituted by**  
**No. 15/2018**  
**s. 51.**

## **6 General powers of the Foundation**

- (1) Subject to this Act, the Foundation has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions.
- (2) Without limiting or derogating from the generality of the powers of the Foundation under this Act, the powers of the Foundation include—
  - (a) creating and administering a trust fund;

- (b) administering the Endowment and Reserve Fund created by the Foundation;
  - (c) obtaining a financial benefit or assistance to obtain a financial benefit by way of overdraft of account at any authorised deposit-taking institution (within the meaning of the Banking Act 1959 of the Commonwealth) or other financial institution in Australia;
  - (d) investing money of the Foundation;
  - (e) exercising any power in relation to investments that a natural person may exercise and, without limiting the generality of the foregoing—
    - (i) selling, bartering, exchanging or otherwise disposing of or getting in any of its investments; and
    - (ii) varying its investments or transposing any of its investments for other investments;
  - (f) defraying any expenses incurred by the Foundation for the purposes of this Act;
  - (g) charging reasonable fees in respect of activities undertaken in the exercise of its statutory functions;
  - (h) reimbursing to members reasonable travelling and other expenses incurred in attending meetings of the Foundation or otherwise in connection with carrying out its business.
- (3) The Foundation may delegate by instrument its powers under subsection (2)(b), (2)(d) and (2)(e) to—
- (a) the Executive Director employed under section 12;

S. 6(2)(g)  
substituted by  
No. 15/2018  
s. 52(1).



(b) an employee employed under section 12;

(c) a consultant engaged under section 12;

S. 6(3)(c)  
amended by  
No. 15/2018  
s. 52(2).

(d) a person engaged on secondment under  
section 12.

S. 6(3)(d)  
inserted by  
No. 15/2018  
s. 52(3).

## **7 Constitution and membership of the Foundation**

S. 7  
substituted by  
No. 19/2011  
s. 4.

(1) The Foundation consists of 8 members—

S. 7(1)  
amended by  
No. 15/2018  
s. 53(1).

(a) one of whom must be—

(i) the Chief Justice; or

S. 7(1)(a)(i)  
amended by  
No. 15/2018  
s. 53(2).

(ii) a person nominated by the Chief  
Justice; and

(b) seven of whom must be appointed by the  
Minister.

S. 7(1)(b)  
amended by  
No. 15/2018  
s. 53(3).

(2) Of the members appointed by the Minister under  
subsection (1)(b)—

(a) one is to be appointed on the nomination of  
the Law Institute of Victoria; and

(b) one is to be appointed on the nomination of  
the Victorian Bar; and

(c) one is to be appointed on the nomination of  
the Federation of Community Legal Centres  
(Vic.) Inc; and

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S. 7(2)(ca)  
inserted by  
No. 15/2018  
s. 53(4).

(ca) one is to be appointed on the nomination of the Board of Victoria Legal Aid; and

S. 7(2)(cb)  
inserted by  
No. 15/2018  
s. 53(4).

(cb) one is to be appointed on the nomination of the Courts Council; and

S. 7(2)(d)  
amended by  
No. 15/2018  
s. 53(5).

(d) one is to be appointed by the Minister having regard, as far as is practicable, to the need for the Foundation to have experience and skills in, and knowledge of, the following areas—

(i) the law, legal research or community education;

(ii) management of community organisations, not-for-profit organisations or bodies corporate;

(iii) financial management;

(iv) grants administration; and

S. 7(2)(d)(iv)  
amended by  
No. 15/2018  
s. 53(6).

S. 7(2)(d)(v)  
repealed by  
No. 15/2018  
s. 53(7).

\* \* \* \* \*

S. 7(2)(e)  
inserted by  
No. 15/2018  
s. 53(8).

(e) one is to be appointed by the Minister having regard, as far as is practicable, to the need for the Foundation to have experience and skills in research and analysis, or in the oversight of research and analysis, in areas including the following—

(i) the justice system;

(ii) social sciences;

(iii) economics;

(iv) statistics;

(v) public policy.

(3) At least 4 of the members of the Foundation must be lawyers.

S. 7(3)  
amended by  
No. 15/2018  
s. 53(9).

(4) The Chairperson of the Foundation is—

(a) the Chief Justice; or

(b) if the Chief Justice has nominated a person under subsection (1)(a)(ii), that person.

**8 Terms and conditions of office of members—  
members other than the Chief Justice and the Chief  
Justice's nominee**

S. 8 (Heading)  
substituted by  
No. 19/2011  
s. 5(1).

(1) Subject to this section, a member appointed under section 7(1)(b) holds office for a term of 3 years from the date of the member's appointment.

S. 8(1)  
substituted by  
No. 19/2011  
s. 5(2).

(2) A member is eligible for re-appointment.

(3) The Minister may at any time remove a member from office on the ground that the member—

(a) in the opinion of the Minister, is mentally or physically incapable of carrying out the duties of the office; or

(b) is absent from 3 consecutive meetings of the Foundation without the consent of the Foundation; or

(c) is an insolvent under administration; or

(d) is disqualified from managing corporations under the Corporations Act; or

(e) is found guilty of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence.

(4) A member may resign by writing delivered to the Chairperson.

S. 8(5)  
substituted by  
No. 19/2011  
s. 5(3),  
amended by  
No. 15/2018  
s. 54.

- (5) The Minister must as soon as practicable after a nominated member referred to in section 7(2)(a), (b), (c), (ca) or (cb) resigns or is removed from office appoint a replacement member on the nomination of the body that nominated the former member.

S. 8A  
inserted by  
No. 19/2011  
s. 6.

#### **8A Terms and conditions of office of members—Chief Justice's nominee**

S. 8A(1)  
amended by  
No. 15/2018  
s. 55.

- (1) Subject to this section, if a person is nominated by the Chief Justice under section 7(1)(a)(ii), that person holds office for—
- (a) as long as determined by the Chief Justice;  
or
  - (b) as long as the Chief Justice who nominated the member holds office as the Chief Justice.
- (2) If a person is nominated by the Chief Justice under section 7(1)(a)(ii), that person may be removed from office by the Chief Justice.
- (3) If a person is nominated by the Chief Justice under section 7(1)(a)(ii), that person may resign by writing delivered to the Chief Justice and the Foundation.

#### **9 Meetings**

- (1) Meetings of the Foundation must be held at such times and places as the Foundation may from time to time determine or as the Chairperson may direct.
- (2) The Chairperson must preside at any meeting of the Foundation at which he or she is present.
- (3) If the Chairperson is absent from a meeting of the Foundation, the members present at the meeting must elect one of those present to preside at the meeting.

- (4) The quorum of the Foundation is 4 members.
- (5) A question arising at a meeting is determined by a majority of votes of members present and the person presiding has a deliberative vote and, in the case of an equality of votes, a second or casting vote.
- (6) The person presiding at a meeting must ensure that accurate minutes of the meeting are kept.
- (7) Subject to this Act, the Foundation may regulate its own proceedings.

S. 9(4)  
amended by  
Nos 19/2011  
s. 7, 15/2018  
s. 56.

## **10 Conflicts of interest**

- (1) If—
  - (a) a member has a personal interest (whether pecuniary or otherwise) in a matter being considered or about to be considered by the Foundation; and
  - (b) the interest appears to raise a conflict of interest with the proper performance of the member's duties in relation to the consideration of the matter—

the member, as soon as practicable after becoming aware of the relevant facts, must declare the nature of the interest at a meeting of the Foundation.

Penalty: 5 penalty units.

- (2) The person presiding at a meeting at which a declaration is made must cause a record of the declaration to be made in the minutes of the meeting.

- (3) After becoming aware of the conflict of interest in a matter—
- (a) unless the Foundation directs otherwise, the member must not be present during any deliberations on the matter; and
  - (b) the member is not entitled to vote on the matter; and
  - (c) if the member does vote, the vote must be disallowed.

### **11 Validity of decisions**

An act or decision of the Foundation is not invalid merely because of—

- (a) a defect or irregularity in, or in connection with, the appointment of a member; or
- (b) a vacancy in the office of a member.

### **12 Executive Director and employees**

- (1) The Foundation may appoint an Executive Director and any other employees that are necessary for the performance by the Foundation of its functions.
- (2) The Foundation may engage a person—
  - (a) as a consultant on any terms and conditions that it thinks fit; or
  - (b) who is employed under Part 3 of the **Public Administration Act 2004**, under a secondment for the person's services by arrangement with a Department Head.

S. 12(2)  
substituted by  
No. 15/2018  
s. 57.

## **Part 3—Transitional provisions and repeal**

### **13 Transitional provisions**

- (1) On the day this Act commences—
  - (a) a person holding office as a member of the Foundation immediately before that day ceases to hold that office; and
  - (b) the person holding office as the President of the Foundation immediately before that day ceases to hold that office.
- (2) Despite the repeal of the **Victoria Law Foundation Act 1978**, section 6 of that Act continues to apply in respect to any thing done or omitted to be done before that repeal in the exercise or purported exercise of any power or duty conferred or imposed upon the Foundation or on any member or members of the Foundation.
- (3) The Foundation is the same body as the body corporate under the **Victoria Law Foundation Act 1978** despite the repeal of that Act and the change to its membership by this Act.

### **14 Repeal of Victoria Law Foundation Act 1978**

The **Victoria Law Foundation Act 1978** is repealed.

S. 15  
inserted by  
No. 19/2011  
s. 8.

## 15 Transitional provisions—Victoria Law Foundation Amendment Act 2011

- (1) Subject to this section, on and from the commencement of the **Victoria Law Foundation Amendment Act 2011**—
  - (a) the Foundation is taken to be the same body as it was immediately before that commencement, despite any changes to the constitution and membership of the Foundation and no decision, matter or thing is to be affected because of those changes; and
  - (b) the members of the Foundation remain in office on the terms and conditions on which they held office immediately before that commencement.
- (2) A person who was a member of the Foundation appointed by the Minister under section 7(1)(e) before the commencement of section 4 of the **Victoria Law Foundation Amendment Act 2011** continues to be a member of the Foundation until the expiry of his or her appointment unless one of the following occurs—
  - (a) he or she resigns from office; or
  - (b) he or she is removed from office by the Minister.
- (3) On and from the commencement of the **Victoria Law Foundation Amendment Act 2011**, the Foundation may consist of up to 3 members appointed by the Minister, where those members were appointed under section 7(1)(e) before that commencement, until the membership of one of the persons to whom subsection (2) applies ceases.



- (4) On and from the commencement of the **Victoria Law Foundation Amendment Act 2011**, the Foundation may consist of up to 7 members until the membership of one of the persons to whom subsection (2) applies ceases.
- (5) On and from the commencement of the **Victoria Law Foundation Amendment Act 2011**, the quorum of the Foundation is 4 members while the Foundation consists of all the members to whom subsection (2) applies.
- (6) A person who was the Chairperson of the Foundation appointed by the Minister under section 7(1)(a) before the commencement of the **Victoria Law Foundation Amendment Act 2011** continues to be the Chairperson of the Foundation on and from that commencement until the expiry of his or her appointment unless one of the following occurs—
  - (a) he or she resigns from office; or
  - (b) he or she is removed from office by the Minister on the request of the Chief Justice of the Supreme Court of Victoria.

**16 Transitional provisions—Justice Legislation Amendment (Access to Justice) Act 2018**

- (1) Subject to this section, on and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**—
  - (a) the Foundation is taken to be the same body as it was immediately before that commencement, despite any changes to the constitution and membership of the Foundation and no decision, matter or thing is to be affected because of those changes; and

S. 16  
inserted by  
No. 15/2018  
s. 58.

- (b) the members of the Foundation remain in office on the terms and conditions on which they held office immediately before that commencement.
- (2) A person who was a member of the Foundation appointed by the Minister under section 7(1)(b) before the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018** continues to be a member of the Foundation until the expiry of that person's appointment unless one of the following occurs—
- (a) the person resigns from office or otherwise ceases to hold office as member; or
  - (b) the person is removed from office by the Minister.
- (3) Despite the amendment of section 7(1)(b) by Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the number of members of the Foundation appointed by the Minister may exceed 7 during the period of membership of a person referred to in subsection (2).
- (4) On and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the Foundation may consist of more than 8 members until the membership of one of the persons to whom subsection (2) applies ceases.
- (5) Despite section 9(4), on and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the quorum of the Foundation is 5 members if subsection (4) applies.

- (6) The Chairperson of the Foundation under section 7(4) immediately before the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018** continues to be the Chairperson of the Foundation on and from that commencement until the expiry of that appointment unless one of the following occurs—
- (a) if the Chairperson is the Chief Justice, the Chief Justice resigns or otherwise ceases to hold office as Chief Justice; or
  - (b) if the Chief Justice has nominated a person under section 7(1)(a)(ii), that person—
    - (i) resigns from office or otherwise ceases to hold office; or
    - (ii) is removed from office by the Chief Justice; or
    - (iii) is removed under section 8A(1)(b).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 26 June 2008*

*Legislative Council: 21 August 2008*

The long title for the Bill for this Act was "A Bill for an Act to provide for the continuation of the Victoria Law Foundation and to repeal the **Victoria Law Foundation Act 1978** and for other purposes."

The **Victoria Law Foundation Act 2009** was assented to on 24 March 2009 and came into operation on 1 July 2009: section 2(2).

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

## 2 Table of Amendments

This publication incorporates amendments made to the **Victoria Law Foundation Act 2009** by Acts and subordinate instruments.

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### **Victoria Law Foundation Amendment Act 2011, No. 19/2011**

*Assent Date:* 31.5.11  
*Commencement Date:* Ss 4–8 on 23.6.11: Special Gazette (No. 193) 21.6.11  
p. 1  
*Current State:* All of Act in operation

### **Associations Incorporation Reform Act 2012, No. 20/2012**

*Assent Date:* 1.5.12  
*Commencement Date:* S. 226(Sch. 5 item 24) on 26.11.12: Special Gazette  
(No. 384) 20.11.12 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Victoria Law Foundation Act 2009**

### **Legal Profession Uniform Law Application Act 2014, No. 17/2014**

*Assent Date:* 25.3.14  
*Commencement Date:* S. 160(Sch. 2 item 104) on 1.7.15: Special Gazette  
(No. 151) 16.6.15 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Victoria Law Foundation Act 2009**

### **Justice Legislation Amendment (Access to Justice) Act 2018, No. 15/2018**

*Assent Date:* 29.5.18  
*Commencement Date:* Ss 49–58 on 1.7.18: Special Gazette (No. 284) 19.6.18  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Victoria Law Foundation Act 2009**

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### **3 Amendments Not in Operation**

There are no amendments which were Not in Operation at the date of this publication.

**4 Explanatory details**

No entries at date of publication.