



SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

Report on the Legislation Reform (Repeals No. 4) Bill 2009

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**Scrutiny of Acts and Regulations
Committee**

**Report on the Legislation Reform
(Repeals No. 4) Bill 2009**

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Scrutiny of Acts and Regulations Committee

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Referral to Committee

Extracted from the Votes and Proceedings of the Legislative Assembly

No 111 — Thursday, 12 March 2009

- 21 LEGISLATION REFORM (REPEALS No. 4) BILL 2009** — Motion made, by leave, and question — That the proposals contained in the Legislation Reform (Repeals No. 4) Bill 2009 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report (*Mr Batchelor*) — put and agreed to.

Terms of Reference

Parliamentary Committees Act 2003, section 17

The functions of the Scrutiny of Acts and Regulations Committee are –

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
 - (i) trespasses unduly upon rights or freedoms;
 - (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
 - (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
 - (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *Information Privacy Act 2000*;
 - (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
 - (vi) inappropriately delegates legislative power;
 - (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny;
 - (viii) is incompatible with the human rights set out in the Charter of Human Rights and Responsibilities;
- (b) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament –
 - (i) as to whether the Bill directly or indirectly repeals, alters or varies section 85 of the *Constitution Act 1975*, or raises an issue as to the jurisdiction of the Supreme Court;
 - (ii) if a Bill repeals, alters or varies section 85 of the *Constitution Act 1975*, whether this is in all the circumstances appropriate and desirable;
 - (iii) if a Bill does not repeal, alter or vary section 85 of the *Constitution Act 1975*, but an issue is raised as to the jurisdiction of the Supreme Court, as to the full implications of that issue;
- (c) to consider any Act that was not considered under paragraph (a) or (b) when it was a Bill –
 - (i) within 30 days immediately after the first appointment of members of the Committee after the commencement of a Parliament; or
 - (ii) within 10 sitting days after the Act receives Royal Assent —whichever is the later, and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (fa) the functions conferred on the Committee by the Charter of Human Rights and Responsibilities;
- (g) to review any Act in accordance with terms of reference which the Act is referred to the Committee.

Recommendations and Ministerial correspondence

Recommendations

1. *The Committee considers that the repeal of the forty-five (45) spent principal Acts listed in the Schedule is appropriate.*
2. *The Committee considers that the repeal of the five (5) amending Acts in the Schedule containing savings, transitional or validating provisions is appropriate.*

Ministerial correspondence

The Committee notes that the Footscray Land (Amendment) Act 1990 remains unproclaimed. The Committee will write to the Minister for further advice concerning the necessity to retain this unproclaimed Act.

Legislation Reform (Repeals No. 4) Bill 2009

Introduced	10 March 2009
Second Reading Speech	12 March 2009
House	Legislative Assembly
Minister introducing Bill	Hon. John Brumby MP
Portfolio responsibility	Premier

Reference to the Committee

On 12 March 2009 on the motion of the Hon. Peter Batchelor MP, the Legislative Assembly resolved to refer the Bill to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

The role of the Committee in considering a statute law revision Bill

The role of the Committee in considering a statute law revision Bill is to ensure that any amendments made to Acts are not of a substantive nature and are strictly confined to the correction of references, spelling, drafting and grammatical errors which are intended to clarify the original intent of the legislation. Where Acts are to be repealed the objective of the Committee is to ensure that the Acts sought to be repealed are spent or no longer necessary to remain on the Victorian Statute books and that there are appropriate transitional or savings provisions in place, should such provisions be necessary. This Bill is confined to the repeal of redundant or spent principal and amending Acts. The Bill makes no statute law revision amendments to Acts.

Rights and liabilities

In respect to the repeal of Acts that may have included provisions creating rights or imposing obligations the Committee notes the operation of section 14(2)(e) of the *Interpretation of Legislation Act 1984*. The section relevantly provides that –

Where an Act or a provision of an Act is repealed or amended or expires, lapses or otherwise ceases to have effect the repeal, expiry, lapsing or ceasing to have effect of that Act or provision shall not unless the contrary intention expressly appears affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision.

Purpose of the Bill

The explanatory memorandum of the Bill provides that the purpose of the Bill is to repeal spent or redundant Acts relating to land.

The Committee notes the following extracts from the Premier's Second Reading Speech –

The Schedule to the Bill lists the spent and redundant Acts to be repealed. The focus of this Bill is on land. The Acts identified for repeal largely relate to legislation that revoked permanent reservations over, and grants of, Crown land to provide changes in land status to support government or projects supported by government. A number of the Acts provided leasing powers that are now contained in the Crown Land (Reserves) Act 1978.

The Acts to be repealed have been identified as suitable for repeal following a review of Victoria's legislation by the Office of Chief Parliamentary Counsel and the Department of Sustainability and Environment.

Office of the Chief Parliamentary Counsel

The Committee received evidence from the Chief Parliamentary Counsel, Mrs Gemma Varley.

The Committee considered the evidence and concluded that the Acts to be repealed were appropriate to be contained in a statute law revision Bill.

The Chief Parliamentary Counsel also provided the Committee with a certificate dated 17 March 2009 declaring that the Bill contains only repeals and amendments appropriate for a statute law revision Bill and that any transitional, saving or validation provisions in the Acts to be repealed will be saved by the operation of section 14 of the *Interpretation of Legislation Act 1984*.

The certificate of the Chief Parliamentary Counsel is shown at **Appendix 1**.

Content and Committee comment

Statement of Compatibility

The Committee notes the Statement of Compatibility attached to the Second Reading Speech¹ declares that the Premier is of the opinion that the Bill does not raise any human rights issues, and is compatible with the Charter of Human Rights and Responsibilities.

The Bill in brief

[Clauses]

- [1]. Provides that the purpose of the Bill is to repeal certain spent Acts relating to land.
- [2]. Provides that the repeal of the Acts come into force on the day after Royal Assent.
- [3]. Provides for the Acts listed in the Schedule are to be repealed.
- [4]. Provides for the automatic repeal of this amending Act on the first anniversary of the day on which it receives Royal Assent.

Schedule

Repeal of Acts

The Acts to be repealed in the Schedule fall into 2 categories —

¹ *Parliamentary Debates*, Legislative Assembly, 12 March 2009.

1. Spent Principal Acts

The Bill repeals the following Principal Acts relating to land. The identified Acts are no longer required because they have taken effect and are spent or redundant. Section 14 of the *Interpretation of Legislation Act 1984* provides that the repeal of these Acts will not affect the operation of, or anything done under, those Acts.

Section 14 also preserves any right the Crown had not to have to pay compensation under of the relevant Acts to any person or body in respect of matters arising under the Act unless the Act provided for the payment of compensation.

Notes:

1. *The Acts having no-compensation provisions are marked with a single asterisk (*) and the Acts making provision for specific compensation payments are marked with a double asterisk (**). The Crown's right not to pay compensation to any person or body in respect of matters arising under these Acts or the specified rights to compensation are saved by section 14 of the Interpretation of Legislation Act 1984.*

2. *As a consequence of amendments made to the Constitution Act 1975 in 1991, Acts containing a no-compensation provision included the mandatory section 85 of the Constitution Act 1975 declaratory section providing that it was the intention of the no-compensation provision to repeal, alter or vary section 85 of the Constitution Act 1975. For reference purposes the Acts containing such declaratory provisions are marked with a hash (#). The Crown's right not to pay compensation to any person or body in respect of matters arising under these Acts or the rights of a person or body to specified compensation are saved by section 14 of the Interpretation of Legislation Act 1984.*

The principal Acts to repealed by this Bill listed by their item number are the –

1.1 South and East Melbourne Lands Act 1906 (No. 2057)

Sections 2 and 3 of this Act partly revoked an Order in Council reserving land at South Melbourne and authorised the sale in fee simple of the land previously reserved to the Melbourne and Metropolitan Board of Works (MMBW), which was authorised to buy it. Section 4 revoked Orders in Council reserving land in the City of Melbourne and section 5 authorised the MMBW, in whom the land was vested under the Melbourne and Metropolitan Board of Works Act 1890, to sell the land to the Victorian Eye and Ear Hospital, which was authorised to buy it. The revocations have come into effect and are spent. The land to be sold under section 3 was granted to the MMBW in 1908 and is now freehold land and the land to be sold under section 5 was transferred to the Victorian Eye and Ear Hospital in 1907.

1.2 Ballarat Lands Act 1939 (No. 4716)*

The Act revoked and partly revoked a number of Orders in Council and Crown grants relating to reserved land at Ballarat. This Act also repealed the Ballarat Court House Land Act 1902 and partly repealed the Ballarat Free Library (Borrowing) Act 1938 (now repealed) to the extent that the 1938 Act related to certain land and any mortgages relating to that land were revoked. The 1939 Act also redefined the boundaries of land used for a free library and deemed the Ballarat Free Library (Borrowing) Act 1938 and any mortgage made under that Act to relate to land within the new boundaries. Most of the land previously reserved was deemed to be unalienated Crown land. Section 6 empowered the Governor in Council to reserve certain land for public offices. The reservation has taken effect. The revocation, repeal and deeming provisions have taken effect and are now spent. All land dealt with under the 1939 Act has subsequently been re-reserved for a number of purposes.

1.3 Bendigo (Rosalind Park) Lands Act 1951 (No. 5551)*

Section 2 of the Act provided for the revocation of Orders in Council and a Crown grant reserving land at Bendigo to enable the realignment of the boundaries of Rosalind Park. The Act also repealed the Sandhurst Public Buildings Act 1882 (now repealed) to the extent that it related to certain land. The land previously reserved was then deemed to be unalienated Crown land. Section 2(5) is a saving provision in respect of that land. The relevant provisions have taken effect and are now spent. Under section 3(1) the Governor in Council was empowered to reserve land described in Schedules 2 to 5 to that Act for various purposes. All this land was subsequently so reserved. Section 3(1) is redundant. Section 3(2) saved rights of foot-way and carriage-way over the land described in Schedule 2 to be reserved under section 3(1).

1.4 Port Melbourne Lagoon Lands Act 1957 Act (No. 6105)

Section 2 of the Act vested certain land at Port Melbourne on which there was a pumping station in the Melbourne and Metropolitan Board of Works. The vesting of the land has taken effect.

1.5 Kerang (Alexandra Park) Land Act 1962 (No. 6869)*

Section 2 of the Act provided for the committee of management of land at Kerang permanently reserved as a site for a racecourse, public recreation and show yards to have the power to lease part of that land for the purposes of a drive-in theatre. There is no longer a drive-in theatre on the land, there are no remaining leases granted under that section and there is now power under section 17D of the Crown Land (Reserves) Act 1978 for the trustees or the committee of management to lease the land. Section 2 is no longer required.

1.6 Revocation and Excision of Crown Reservations Act 1972 (No. 8255/1972)*

The Act partly revoked Orders in Council and a Crown grant in respect of reserved land at Mordialloc, Orbest and St Kilda and deemed the previously reserved land to be unalienated Crown land. Section 5(1) required the Melbourne and Metropolitan Board of Works to pay the trustees of certain land \$53 400. This money has been paid.

1.7 Bittern Land Act 1974 (No. 8535)*

Section 2 of the Act gave power to the Committee of Management (the Corporation of the Shire of Hastings) of certain land reserved for public recreation in the parish of Bittern to grant a development lease over part of that land for the purposes of a golf course. Such a lease could not be granted to expire after 31 December 1996 so no further leases can be granted under section 2. This section is redundant.

1.8 Revocation and Excision of Crown Reservations Act 1974 (No. 8601/1974)*

The Act revoked and partly revoked or cancelled Orders in Council, Crown grants and a certificate of title relating to reserved land at South Melbourne, Ballarat, Buninyong and at Heatherton in the parish of Mordialloc and the land previously reserved was deemed to be unalienated Crown land. These provisions have taken effect and are spent. Under section 5, the trustee of land, part of which was no longer reserved due to the 1974 Act, was to be paid \$74,000 by the Country Roads Board. This provision has been complied with.

1.9 Revocation and Excision of Crown Reservations Act 1976 (No. 8847)*

This Act revoked an Order in Council reserving land near and partly revoked other Orders in Council and a Crown grant relating to reserved land at Daylesford, in the parish of Wombat, at Mirboo North, at Bundoora in the parish of Keelbundora and at Keilor so that the land could be used for other purposes. The land previously reserved was deemed to be unalienated Crown land. These provisions have come into effect and are spent. Under

section 5 the Governor in Council could by notice in the Government Gazette vest the land previously reserved at Bundoora in the parish of Keelbundora and occupied by a new pipeline constructed by the Melbourne and Metropolitan Board of Works in that Board. The land has been vested in the Board.

1.10 Revocation and Excision of Crown Reservations Act 1981 (No. 9530)*

The Act revoked in part Orders in Council relating to reserved land at Alexandra, San Remo and Cobden so that the land could be used for other purposes. The excised land was deemed to be unalienated Crown land. The relevant provisions have come into effect and are spent.

1.11 Geelong Lands Act 1981 (No. 9538)*

Section 2 of the Act revoked Orders in Council and a Crown grant reserving land at Geelong. Section 3 deemed the land to be unalienated Crown land. These revocations and deeming provisions have taken effect and are now spent. Section 3 also provided that the land may be re-reserved under the Crown Land (Reserves) Act 1978 as a site for the Institute of Educational Administration and for public recreation. The land was reserved for such purposes in 1982. Section 3 is redundant.

1.12 French Island (Land Exchange) Act 1981 (No. 9587)*

The Act authorised an exchange of Crown land for freehold land on French Island to consolidate the State park. Section 2 of this Act provided for an Order in Council temporarily reserving land to be partly revoked. Section 3 deemed certain land owned by various parties to be unalienated Crown land after having been transferred and surrendered to the Crown and the Treasurer paying a sum to the parties. In exchange for the surrendered land the parties specified in Schedule 3 were to be granted the land previously reserved under section 2 in fee simple. The land exchange has been completed. Sections 2 and 3 have come into effect and are spent.

1.13 Crown Reservations (Revocation and Excision) Act 1981 (No. 9641)*

Sections 3 and 4 of the Act wholly or partly revoked Orders in Council and a Crown grant in so far as they related to reserved land at Mandurang South in the parishes of Mandurang and Murmangee and deemed the land to be unalienated Crown land. These provisions have come into effect and are spent. The previously reserved land has since been declared to be a road. Under section 6 due to the publication of a notice of completion of works certain land at Kew in the parish of Boorondara ceased to be a public road, was deemed to be unalienated Crown Land and became part of other reserved land at Kew in the parish of Boorondara. By a proclamation made under section 7 by the Governor in Council certain reservations over land at Kew in the parish of Boorondara were revoked and the land deemed to be unalienated Crown land. These provisions have taken effect and sections 6 and 7 are spent. Section 5, which allowed entry onto reserved land at Kew in the parish of Boorondara to carry out road work is no longer needed and is redundant.

1.14 Revocation and Excision of Crown Reservations Act 1982 (No. 9855)*

The Act revoked wholly or in part Orders in Council relating to reserved land at Box Hill, Ballarat in the parishes of Coliban and Narrea Worrان and at Melton and Eltham. The land previously reserved was deemed to be unalienated Crown land. The relevant provisions have come into effect and are spent.

1.15 Revocation and Excision of Crown Reservations Act 1983 (No. 9922)*

Section 2(1) of the Act partly revoked Orders in Council relating to reserved land in the parishes of Colquhoun, Eildon, Keelbundora, Tarneit, Deutgam and in the City of Melbourne. Section 2(2) repealed section 86(1) of the Cemeteries Act 1958 (now

repealed) and any other Act in so far as they applied to certain land in the parish of Will-will-rook. Section 2(3) repealed section 8(1) and Schedule 2 to the Emerald Tourist Railway Act 1977 and any other Act in so far as they applied to certain land in the parish of Gembrook. Land previously reserved was deemed to be unalienated Crown land under section 3.

1.16 Land (Miscellaneous Matters) Act 1984 (No. 10139)*

Sections 3 and 4 of the Act provided for the revocation in part of Orders in Council permanently reserving certain land in the parish of Prahran and at Whittlesea and for the land no longer subject to reservation to be deemed to be unalienated Crown land. Section 5(1) closed parts of certain roads at Geelong and deemed the land to be unalienated Crown land. The land concerned is now freehold land. These provisions have taken effect and are now spent. Section 6, which amended the Melbourne General Market Lands Act 1917 (now repealed), has taken effect and is spent.

1.17 South Melbourne Land Act 1985 (No. 10180)*

Section 3(1) of this Act closed part of Bright Street in South Melbourne and all related rights, easements and privileges concerning the road ceased. The land was then deemed to be unalienated Crown land. This provision has come into effect and is spent.

1.18 Land (Miscellaneous Matters) Act 1985 (No. 10224)*

The Act closed part of Moorabool Street in Geelong and associated rights, easements and privileges ceased. The proclamation proclaiming the road was also revoked. Section 4 of the 1985 Act authorised the Lord Mayor, Councillors and Citizens of Melbourne to surrender certain land used as a cattle market and for slaughtering to the Crown. This has been done. On surrender of the land, the land was deemed to be unalienated Crown land and the market was extinguished. These provisions have come into effect and are spent. Section 4(3)(b) extinguished the right in any person to enter the previous market land to buy or sell animals. This provision has taken effect. Section 5(1) repealed Act 21 Victoria No. 11 and stated that certain Crown grants referred to in that Act were still valid. The Newmarket Sheep Sales Act 1974 was also repealed and the Local Government Act 1958 and the Local Government Act 1890 were amended. The 1985 Act also partly revoked Orders in Council and a Crown grant relating to reserved land and section 86(1)(b) of the Cemeteries Act 1958 (since repealed) in so far as it related to certain land and any other Order in Council or Proclamation in so far as it may affect that land. The previously reserved land was then deemed to be unalienated Crown land. These provisions all have come into effect and are spent.

1.19 Land (Miscellaneous Matters) Act 1986 (No. 36/1986)**

The Act revoked or partly revoked Orders in Council permanently reserving certain land at Bachus Marsh, in the parishes of Barrabool, Gembrook and Dandenong and at Torquay and deemed the land previously reserved to be unalienated Crown land. These revocation and deeming provisions have taken effect and are now spent. The 1986 Act also made amendments to the Land Act 1958 and the Local Government Act 1958. The 1986 Act also amended the Emerald Tourist Railway Act 1977 in so far as it applied to certain land in the parish of Gembrook. The amendments have taken effect and are spent.

1.20 Land (Miscellaneous Matters) Act 1987 (No. 30/1987)*

The Act revoked and partly revoked Orders in Council permanently reserving certain land in the parishes of Cranbourne and Coleraine and deemed the land previously reserved to be unalienated Crown land. The 1987 Act also repealed the Port Fairy Land Act 1981. The revocation, deeming and repeal provisions have taken effect and are spent.

1.21 Land (Amendment and Miscellaneous Matters) Act 1987 (No. 75/1987)*

The Act made amendments to the Land Act 1958, which have come into effect. Sections 5 and 6 partly revoked an Order in Council and Crown grant reserving land at South Melbourne and deemed the land subject to the revocation to be unalienated Crown land. The revocations and deeming provisions have taken effect and are spent. Section 8 revoked an Order in Council permanently reserving land at Benalla and provided that the vesting of that land in the State Transport Authority and leases granted by that Authority would not be affected by the revocation.

1.22 Warrnambool Land Act 1989 (No. 3/1989)*

The Act partly revoked an Order in Council reserving land at Warrnambool and deemed the previously reserved land to be unalienated Crown Land. The revocation and deeming provisions have come into effect and are spent.

1.23 Frankston Lands Act 1989 (No. 32/1989)*

The Act partly revoked an Order in Council reserving land) for a public park at Frankston, deemed it to be unalienated Crown land and re-reserved the land for public recreation allowing it to be able to be leased to the Frankston Football Club. The Act deemed to be appointed under the Crown Land (Reserves) Act 1978 the Corporation of the City of Frankston as committee of management over the re reserved land. These provisions have taken effect and are spent or redundant.

1.24 Land (Miscellaneous Matters) Act 1989 (No. 34/1989)**

The Act revoked or partly revoked Orders in Council and Crown grants relating to certain reserved lands at Ballarat, Pomonal, Queen Victoria Hospital land, Malvern, Kaniva and Heidelberg. These revocations have come into effect and are spent. Section 15 provided for the Governor in Council, on the Minister's recommendation, to make an Order that would result in the changing of the boundaries of the Yarra Bend Park. This Order was made. Section 19 provided for trustees to be deemed to be appointed under the Kew and Heidelberg Lands Act 1933 as trustees of the additional land at Yarra Bend Park and for their appointment to be revoked in relation to the land excised from that Park. Section 18 removed certain rights of the Melbourne Metropolitan Board of Works under certain Acts in relation to land excised from the Yarra Bend Park but certain rights of carriageway were saved under section 18(2). These rights will continue to be saved by section 14 of the Interpretation of Legislation Act 1984 (the ILA). The 1989 Act also made amendments to the Kew and Heidelberg Lands Act 1933, the Kew and Heidelberg Lands Act 1958 and the Melbourne Lands Act 1987 and repealed the Moolap Salt Works Act 1896 and the Wangaratta Lands Act 1933. All these provisions have taken effect and are spent.

1.25 Yackandandah Land Act 1990 (No. 9/1990)*

The purpose of the Act was to revoke permanently reserved land at Yackandandah so that the land could be exchanged for other land surrendered to the Crown. Section 3 partly revoked the Order in Council reserving land. The land previously reserved was then deemed under section 4 to be unalienated Crown land and under section 5 the committee of management under the Crown Land (Reserves) Act 1978 was revoked in relation to that land. These provisions have come into effect and are spent. The land is now freehold land. Section 7 applied the Subdivision Act 1988 to certain land surrendered to the Crown under section 12A of the Land Act 1958. The Minister administering section 12A was given the power to execute documents or do anything under the Subdivision Act 1988 in relation to a plan of subdivision including the surrendered land. Section 7 is no longer required as all the surrendered land has been subdivided. The 1990 Act can be repealed.

1.26 Land (IOOF) Act 1990 (No. 47/1990)*

The Act repealed the Oddfellows Hall (Melbourne) Land Act 1930 and revoked an Order in Council and a Crown grant relating to land in the City of Melbourne reserved for use by the

Society known as the Independent Order of Oddfellows of Victoria. The land previously reserved was deemed to be unalienated Crown land and the trustees of the land were discharged from their liabilities. These provisions have taken effect and are spent.

1.27 Land (Reservations Removal) Act 1991 (No. 37/1991)*

The Act revoked a number of Orders in Council reserving land at Spencer Street to the extent that they were not already revoked and also discharged certain land at Spencer Street from any reservation for railway purposes. These provisions have taken effect and are spent. Section 4 validated certain dealings with certain land and deemed the land to never have been subject to reservation for railway purposes.

1.28 Portarlington Land Act 1991 Act (No. 71/1991) #

Section 3 of the Act partly revoked an Order in Council reserving the foreshore of Port Arlington. Section 4 deemed the previously reserved land to be unalienated Crown land, revoked the appointment of any committee of management relating to that land and revoked any regulations under the Crown Land (Reserves) Act 1978 applying to that land. These provisions have taken effect and are spent. Section 6, which provides that section 85 of the Constitution Act 1975 is altered or varied due to section 5 (a no-compensation provision), is no longer required.

1.29 Land (Miscellaneous) Act 1991 (No. 77/1991) #

The Act revoked a number of Orders in Council relating to reserved land at Dingee, Glenrowan, Charam and Trentham. An Order in Council relating to reserved land at Janefield was partly revoked and the land re-reserved. These provisions have come into effect and are spent. Orders in Council and a Crown grant relating to reserved land at the Caulfield racecourse were partly revoked. The land no longer reserved ceased to be a racecourse and was taken to be a road. Part of a road at the racecourse ceased to be a road and was deemed to be permanently reserved for racing, recreation and public park purposes. These provisions have taken effect and are spent as is section 9 which deemed the land no longer reserved to be unalienated Crown land and revoked the appointment of any relevant committee of management and any regulations under the Crown Land (Reserves) Act 1978 applying to that land. Section 11, which alters or varies section 85 of the Constitution Act 1975 due to section 10 (a no-compensation provision), is no longer required.

1.30 Sunshine Land Act 1992 (No. 77/1992) #**

The Act revoked or partly revoked Orders in Council permanently reserving land at Sunshine. The land previously reserved was deemed to be unalienated Crown land, management of the land reverted to the Crown, any appointment of a committee of management for the land was revoked and any applicable regulations under the Crown Land (Reserves) Act 1978 were revoked. The relevant provisions have come into effect and are spent. Section 6 which alters or varies section 85 of the Constitution Act 1975 due to section 5 (a no-compensation provision) is no longer required.

1.31 Land (Miscellaneous Matters) Act 1993 (No. 27/1993) #

The Act contains a number of provisions which revoked or partly revoked Orders in Council and Crown grants relating to reserved land at South Melbourne, Drysdale, Mildura and in the parishes of Gunbower, Pompapiel, Rich Avon and Myamyn. Section 17 deemed the previously reserved land to be unalienated Crown land and divested management of the land from the relevant controlling persons or bodies, revoked the appointment of any relevant committee of management and any regulations under the Crown Land (Reserves) Act 1978 that applied to the land. These provisions have all come into effect and are spent. Section 4 enabled the registered proprietor of certain land at South Melbourne to surrender it to the Crown. This surrender has occurred. Section 4(2) saves any lease over

the land. Sections 12 and 15 amended the Land Act 1958 and are spent. Section 13 enabled the Attorney-General to authorise the surrender of certain land to the Crown and extinguished an easement and mortgage relating to the land on the surrender of the land. The land has been surrendered. Section 14 authorised the surrender of land at Oxley to the Crown. This surrender did not occur as the transfer of the land to the Crown took effect before the section commenced. This section is no longer required. The savings provision under section 4(2) and the Crown's right under section 19 not to have to pay compensation in respect of matters arising under the 1993 Act will be saved by section 14 of the Interpretation of Legislation Act 1984. Section 20, which alters or varies section 85 of the Constitution Act 1975 due to section 19 (a no-compensation provision), is no longer required.

1.32 Land (Further Miscellaneous Matters) Act 1994 (No. 6/1994) #

Section 3 of the Act removed a trust for cemetery purposes over Yarram Memorial Gardens and deemed the land to be unalienated Crown land. Sections 4 and 5 revoked Orders in Council reserving land at Ballarat and in the parish of Wurdi Youang. Sections 6 and 7 revoked Orders in Council reserving land at Romsey Park and deemed the land to be re-reserved under the Crown Land (Reserves) Act 1978 (CL(R)A) and deemed the committee of management under the original reservations to be appointed under the CL(R)A in respect of the re-reserved land. Section 8 revoked an Order in Council reserving land at Anglesea. All these revocation and deeming provisions have come into effect and are spent. Section 9 saved the operation of the Mines (Aluminium Agreement) Act 1961 and agreements and rights and obligations under that Act. Sections 10 and 11, which made amendments to the Land Act 1958 and the Melbourne Lands Act 1987 (MLA), have taken effect and are spent. Section 12 validates certain actions relating to the inclusion of land under the MLA. Section 13 enabled the Governor in Council to revoke Orders in Council reserving land at Cathedral Place. This was done and the land was sold. Section 14 enabled leases for extraction of shell grit to be issued over land at Lake Victoria. There are no existing leases and this power is no longer required. This section is redundant and may be repealed. Section 15 divested the Thomson River Railway Bridge and associated land from the Shire of Narracan and deemed it be unalienated Crown land and certain rights and privileges conferred and obligations imposed on the Shire ceased. Section 16 repealed the Railways (Thomson River Bridge) Act 1962. Section 17 deemed (subject to Part 5) all land previously reserved under Orders in Council revoked under the 1994 Act to be unalienated Crown land and revoked the appointment of any relevant committee of management over the land and any regulations under the CL(R)A applying to the land. Sections 15, 16 and 17 have come into effect and are spent. Section 20, which alters or varies section 85 of the Constitution Act 1975 due to section 19 (a no-compensation provision), is no longer required.

1.33 Land (Revocation of Reservations) Act 1995 (No. 13/1995) #

The Act revoked or partly revoked a number of Orders in Council and Crown grants in respect of reserved land at Maryborough, Ballarat and Bendigo and deemed the previously reserved land to be unalienated Crown land, revoked the appointment of any relevant committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land. These provisions have taken effect and are spent. Section 9, which alters or varies section 85 of the Constitution Act 1975 due to section 8 (a no-compensation provision), is no longer required.

1.34 Land (Miscellaneous) Act 1995 (No. 47/1995) #

The Act revoked or partly revoked a number of Orders in Council and a Crown grant in respect of reserved land at Geelong, Langwarrin and Wendouree, deemed the previously reserved land to be unalienated Crown land, and revoked the appointment of any relevant committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land. It also divested control of certain land previously

reserved for Harding Park from the Greater Geelong City Council. These provisions have taken effect and are spent. Section 9, which alters or varies section 85 of the Constitution Act 1975 due to section 8 (a no-compensation provision), is no longer required.

1.35 Land Revocations (And Other Matters) Act 1995 (No. 94/1995)

The Act revoked and partly revoked a number of Orders in Council, Crown grants and reservations under various Acts in respect of reserved land at Launching Place, Myrning, Beaufort, Maryborough, Colac, Fairfield, Warrenheip, Jan Juc and Toolangi, deemed the previously reserved land to be unalienated Crown land and revoked the appointment of any relevant committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land. Certain previously reserved land at Fairfield was permanently re-reserved for certain purposes and the Secretary to the Department of Health and Community Services was deemed to be the committee of management for that land under the Crown Land (Reserves) Act 1978. Part 3 of the 1995 Act amended the Kew and Heidelberg Lands Act 1933 and Part 4 amended the Ballarat (Sovereign Hill) Land Act 1970 and repealed the Ballarat (Sovereign Hill) Land Act 1973. These provisions have come into effect and are spent.

1.36 Land (Revocation of Reservations) Act 1996 (No. 49/1996)

The Act revoked or partly revoked a number of Orders in Council and Crown grants in respect of reserved land at Maffra, Marong, Creswick, Epping, Ballarat, Mount Martha, Koroit, South Melbourne, Stawell, Seaford, Jindivick and Faraday. The 1996 Act deemed the previously reserved land to be unalienated Crown land and revoked the appointment of any relevant committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land.

1.37 Land (Further Revocation of Reservations) Act 1996 (No. 69/1996)

The Act revoked and partly revoked a number of Orders in Council and Crown grants in respect of reserved land at Carisbrook, Bullarto South and Burnley, deemed the previously reserved land to be unalienated Crown land, revoked the appointment of any relevant committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land.

1.38 Land (Revocation of Miscellaneous Reservations) Act 1997 (No. 21/1997)

The Act contains provisions that revoked or partly revoked certain Orders in Council and a Crown grant relating to reserved land at Bairnsdale and Skenes Creek and partly revoked a reservation of land at Phillip Island deemed to be reserved under the Crown Land (Reserves) Act 1978. Section 6 deemed the previously reserved land to be unalienated Crown land and revoked any relevant committees of management and regulations relating to the land. These provisions have taken effect and are spent.

1.39 Land (Revocation of Reservations) Act 1998 (No. 61/1998)

The Act contains provisions that revoked and partly revoked certain Orders in Council relating to reserved land at Bairnsdale, Korkuperrimul and Nunawading. Section 6 deemed the previously reserved land to be unalienated Crown land and revoked any relevant committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to the land. These provisions have taken effect and are spent.

1.40 Land (Further Revocation of Reservations) Act 1998 (No. 68/1998)

The Act revoked or partly revoked a number of Orders in Council, Crown grants and reservations imposed by certain Acts in respect of reserved land at Kangaroo Flat, Carlton, Allendale, South Yarra, Fairfield and Bendigo and deemed the previously reserved land to be unalienated Crown land. The 1998 Act also revoked the appointment of any relevant

committee of management over the land and any regulations under the Crown Land (Reserves) Act 1978 applying to the land. The 1998 Act also repealed the Bendigo (Dai Gum San Village) Land Act 1975. These provisions have taken effect and are spent.

1.41 Land (Revocation of Reservations) Act 2000 (No. 40/2000)

The Act revoked or partly revoked Orders in Council, a Crown grant and other reservations relating to reserved land at Boort, Stawell, Lorne, Albert Park and other land. The land previously reserved was deemed to be unalienated Crown land and any committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to that land were revoked. The Australian Grands Prix Act 1994 was also amended. These provisions have come into effect and are spent. Section 8(2) provided that the revocation of the Crown grant referred to in that section did not affect the reservation of certain land

1.42 Land (Further Revocation of Reservations) Act 2001 (No. 3/2001)

The Act revoked or partly revoked Orders in Council relating to reserved land at Barwon Heads and South Melbourne and revoked an Order in Council and Crown grant relating to reserved land at Ballarat. Land previously reserved under an Order in Council was deemed to be unalienated Crown land and any committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to that land were revoked. These provisions have come into effect and are spent

1.43 Land (Miscellaneous) Act 2004 (No. 21/2004)

The Act revoked or partly revoked Orders in Council and Crown grants relating to reserved land at Kyneton, Sandhurst, Birrarung Marr and Queenscliff. The reservation of certain land at Fawkner under the Cemeteries Act 1958 (now repealed) was also revoked. Land previously reserved was deemed to be unalienated Crown land and any committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to that land were revoked. The land previously reserved at Birrarung Marr was deemed to be temporarily reserved under the Crown Land (Reserves) Act 1978 for public purposes. These provisions have come into effect and are spent or redundant. Part 3 of this 2004 Act amended the Melbourne Cricket Ground Act 1933 and the Melbourne Cricket Ground Trust Act 1989 to add a stratum of land to the Southern Stand at the Melbourne Cricket Ground (Part 3 has already been repealed).

1.44 Land (Revocation of Reservations) Act 2005 (No. 13/2005)

The Act revoked or partly revoked Orders in Council and a Crown grant relating to reserved land at Richmond Park and Sandhurst. Land previously reserved was deemed to be unalienated Crown land and any committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to that land were revoked. The land previously reserved at Sandhurst was deemed to be temporarily reserved under the Crown Land (Reserves) Act 1978 for public purposes (nature conservation). These provisions have come into effect and are spent or redundant.

1.45 Land (Further Miscellaneous) Act 2006 (No. 46/2006)

The Act partly revoked Orders in Council and Crown grants relating to reserved land at Belmont, Moreland South and Bendigo. Land previously reserved was deemed to be unalienated Crown land and any committee of management and regulations under the Crown Land (Reserves) Act 1978 relating to that land were revoked. These provisions have come into effect and are spent.

2. Spent Amending Acts with transitional or substantive provisions

The Schedule also repeals 5 amending Acts that contain transitional, saving or validation provisions or substantive provisions. The amendments or repeals made by the Acts are wholly in

operation and have amended or repealed the provisions of Acts they were enacted to amend or repeal. The transitional and saving provisions are no longer required because of the passage of time and subsequent enactments since the Acts were enacted. The substantive provisions are no longer required because they have taken effect or are spent or redundant. Any residual or continuing effect of the transitional and saving provisions and the effect of the validation provisions will be saved by section 14 of the *Interpretation of Legislation Act 1984*.

Within this group of Acts the *Land (Miscellaneous Matters) and National Tennis Centre (Amendment) Act 1994 (No.90/1994)* includes a section 85 of the *Constitution Act 1975* provision which is no longer required. The Crown's right not to pay compensation to any person or body in respect of matters arising under that Act is saved by section 14 of the *Interpretation of Legislation Act 1984*.

Recommendations

- 1. The Committee considers that the repeal of the forty-five (45) spent principal Acts listed in the Schedule is appropriate.**
- 2. The Committee considers that the repeal of the 5 amending Acts in the Schedule with transitional or substantive provisions is appropriate.**

Unproclaimed Acts

The Committee considers that without reasonable justification, a commencement by proclamation provision or a lengthy delay in the commencement of an Act constitutes an inappropriate delegation of legislative power.²

The Committee notes that since its last report in May 2008³ the *Metung Land Act 1991* has been proclaimed and has come into operation. The remaining unproclaimed Act under review by the Committee is the *Footscray Land (Amendment) Act 1990* (refer to **Appendix 2**).

The Committee resolved to write to the new Minister for Planning to request a further update concerning the continued need to retain this unproclaimed Act.

Ministerial correspondence

The Committee notes that the *Footscray Land (Amendment) Act 1990* remains unproclaimed. The Committee will write to the Minister for further advice concerning the necessity to retain this unproclaimed Act.

² *Parliamentary Committees Act 2003*, section 17(a)(vi).

³ *Report on the Legislation Reform (Repeals No. 3) Bill 2008*, May 2008.

Appendix 1

Chief Parliamentary Counsel's Certificate



PARLIAMENTARY COUNSEL VICTORIA

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17 March 2009

Mr Carlo Carli MP
Chair
Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Dear Mr Carli

LEGISLATION REFORM (REPEALS NO. 4) BILL 2008

As you are aware, this Bill was introduced into the Legislative Assembly on 10 March 2009 and referred to the Scrutiny of Acts and Regulations Committee on 12 March 2009.

In accordance with the usual practice for this kind of Bill, I certify that the Schedule to this Bill contains only repeals appropriate for a redundant legislation repeals Bill. The relevant Department has confirmed that the Acts proposed to be repealed by the Bill are now obsolete or redundant or spent in their operation and can be safely repealed. Any transitional, saving or validation provisions in the Acts to be repealed will be saved by section 14 of the **Interpretation of Legislation Act 1984**.

I can be contacted on 9651 2109 should your Committee have any queries about any provision of the Bill.

Yours sincerely

GEMMA VARLEY
Chief Parliamentary Counsel

Appendix 2 Unproclaimed Acts

The Committee provides the following information⁴ pursuant to section 17(a)(iv) of the *Parliamentary Committees Act 2003* concerning any unproclaimed Act(s).

Unproclaimed Act

Footscray Land (Amendment) Act 1990

⁴ Source: Office of the Chief Parliamentary Counsel of Victoria.