

Authorised Version No. 012

Parks Victoria Act 1998

No. 44 of 1998

Authorised Version incorporating amendments as at
22 June 2011

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to establish Parks Victoria.

2 Commencement

- (1) This Part and section 23 come into operation on 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 July 1999, it comes into operation on that day.

3 Definitions

Department means the Department of Natural Resources and Environment;

member means the chairperson or a member of Parks Victoria;

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No. 44 of 1998
Part 1—Preliminary

s. 3A

S. 3 def. of
MPW
substituted by
No. 66/2000
s. 40.

MPW means Melbourne Parks and Waterways established under the **Water Industry Act 1994** as in force before the coming into operation of section 8 of the **Water Industry (Amendment) Act 2000**;

Parks Victoria means the body established under Part 2.

S. 3A
inserted by
No. 6/2010
s. 25(5)(Sch. 2
item 9) (as
amended by
No. 45/2010
s. 6).

3A Transport Integration Act 2010

This Act is interface legislation within the meaning of the **Transport Integration Act 2010**.

PART 2—PARKS VICTORIA

4 Establishment of Parks Victoria

- (1) There is established a body to be called "Parks Victoria".
- (2) Parks Victoria—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) may acquire, hold and dispose of personal property; and
 - (da) may take land on lease and grant sub-leases of leased land; and
 - (e) may do and suffer all acts and things that a body corporate may, by law, do and suffer.
- (3) The common seal of Parks Victoria must be kept as directed by Parks Victoria.
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

S. 4(2)(da)
inserted by
No. 76/1998
s. 43.

5 Parks Victoria not to represent Crown

Parks Victoria is a public authority but is not, and does not represent, the Crown.

S. 6
amended by
No. 66/2000
s. 41.

6 Constitution and membership of Parks Victoria

Parks Victoria consists of—

- (a) a chairperson; and
- (b) not more than 8 other persons—

appointed by the Governor in Council on the recommendation of the Minister and of whom one or more persons must have skills and experience in conservation.

7 Functions of Parks Victoria

(1) The functions of Parks Victoria are—

- (a) to provide services to the State and its agencies for, or with respect to, the management of parks, reserves and other land under the control of the State;
- (ab) to provide services to the State and its agencies for, or with respect to, the management of waterways land (within the meaning of the **Water Industry Act 1994**) for the purposes of conservation, recreation, leisure, tourism or water transport;
- (b) with the approval of the Minister, to provide services to the owner of any other land used for public purposes for, or with respect to, the management of that land;
- (c) to carry out such other functions as are conferred on it by or under any Act.

(2) In carrying out its functions, Parks Victoria must not act in a way that is not environmentally sound.

S. 7(1)(ab)
inserted by
No. 66/2000
s. 42.

8 Powers of Parks Victoria

For the purpose of carrying out its functions, Parks Victoria—

- (a) may enter into agreements and arrangements for the provision of services;
- (b) may act as a committee of management under the **Crown Land (Reserves) Act 1978**;
- (c) may do anything necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.

9 Prevention and suppression of fire

Parks Victoria and the Director-General or Secretary to the Department may enter into agreements or arrangements relating to the prevention and suppression of fire.

10 Minister may give directions to Parks Victoria

- (1) The Minister may give to Parks Victoria directions in relation to the performance of the functions or exercise of the powers of Parks Victoria.
- (2) Parks Victoria must comply with any direction given under subsection (1).

11 Delegation of functions of Parks Victoria

Parks Victoria may, by instrument in writing, delegate any of its functions or powers, other than its powers under section 8(a) or (b), to—

- (a) a member of Parks Victoria; or
- (b) any person appointed or employed by Parks Victoria.

12 Terms of appointment of members of Parks Victoria

- (1) A member of Parks Victoria holds office for the period, not exceeding 3 years, specified in the instrument of his or her appointment, but is eligible for re-appointment.
- (2) A member of Parks Victoria holds office, subject to this Act, on the terms and conditions specified in the instrument of appointment.

13 Vacancies, resignation and removal from office

- (1) The office of a member becomes vacant if the member—
 - (a) becomes an insolvent under administration; or
 - (b) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence; or
 - (c) without the approval of Parks Victoria, fails to attend 3 consecutive meetings of Parks Victoria.
- (2) A member of Parks Victoria may resign by writing delivered to the Minister.
- (3) The Governor in Council may at any time remove a member of Parks Victoria from office.
- (4) If a member—
 - (a) is convicted of an offence relating to his or her duties as member; or
 - (b) fails without reasonable excuse to comply with section 17—

the member must be removed from office by the Governor in Council.

14 Validity of decisions of Parks Victoria

- (1) An act or decision of Parks Victoria 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 membership of Parks Victoria, including a vacancy arising from the failure to appoint an original member.
- (2) Anything done by or in relation to a person purporting to act as chairperson or as a member is not invalid merely because—
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

15 Proceedings of Parks Victoria

- (1) Subject to subsection (2), meetings of Parks Victoria are to be held at such times and places as Parks Victoria determines.
- (2) The chairperson may at any time convene a meeting, but must do so when requested by a member.
- (3) The chairperson or, in his or her absence, a member appointed by the members present at the meeting, must preside at the meeting.
- (4) A majority of the members for the time being constitutes a quorum of Parks Victoria.
- (5) A question arising at a meeting must be determined by a majority of votes of members present and voting on that question and, if the

voting is equal, the person presiding has a casting vote as well as a deliberative vote.

- (6) Parks Victoria must ensure that minutes are kept of each of its meetings.
- (7) Subject to this section, Parks Victoria may regulate its own proceedings.

16 Resolutions without meetings

- (1) If the members of Parks Victoria for the time being (other than a member who is absent from Australia when the other members sign) sign a document containing a statement that those members are in favour of a resolution in terms set out in the document, a resolution in those terms shall be taken to have been passed at a meeting of Parks Victoria held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last member to sign signs the document.
- (2) If a resolution is, under subsection (1), taken to have been passed at a meeting of Parks Victoria, each member must be advised as soon as practicable and given a copy of the terms of the resolution.
- (3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, shall be taken to constitute one document.

17 Disclosure of interests of Parks Victoria members

- (1) A member of Parks Victoria who has a direct or indirect pecuniary interest in a contract or other matter being dealt with by Parks Victoria must disclose the nature of that interest at a meeting of Parks Victoria as soon as possible after becoming aware of the interest.

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- (2) A member of Parks Victoria who holds an office or possesses property as a result of which, directly or indirectly, duties or interests may be created in conflict with the member's duties as a member, must disclose that fact at a meeting of Parks Victoria as soon as possible after becoming aware of the potential conflict.
 - (3) The person presiding at a meeting at which a disclosure under this section is made must cause that disclosure to be recorded in the minutes of the meeting.
 - (4) A person who has made a disclosure under this section must not take any further part in the discussion of or vote on the contract or other matter to which the disclosure relates.
 - (5) If a member votes on a matter in contravention of subsection (4), his or her vote must be disallowed.

18 Chief executive officer

- (1) Parks Victoria may appoint a person, approved by the Minister, as the chief executive officer of Parks Victoria.
- (2) The chief executive officer holds office, subject to this Act, on a full-time basis and on the terms and conditions that are determined by the Minister in the instrument of his or her appointment.
- (3) The chief executive officer is not eligible to be appointed as a member of Parks Victoria.
- (4) It is a function of the chief executive officer to be the Director of National Parks under the **National Parks Act 1975**.

S. 18(4)
inserted by
No. 66/2000
s. 43.

19 Staff

- (1) Parks Victoria may appoint or employ such persons as are necessary for the performance of its functions.
- (2) The duties of employees of Parks Victoria include such duties in connection with the prevention and suppression of fire as are determined by the Secretary to the Department in consultation with Parks Victoria.

20 Corporate and business plans

- (1) In each year Parks Victoria must prepare—
 - (a) a corporate plan for the next 3 years; and
 - (b) a business plan for the next year.
- (2) Parks Victoria must give a copy of the proposed plans to the Minister on or before 31 May in each year, or such other time as the Minister may specify.
- (3) The proposed plans must be in or to the effect of a form approved by the Minister.
- (4) There must be included in the corporate plan or the business plan—
 - (a) a statement of corporate intent in accordance with section 21;
 - (b) a financial statement containing the prescribed information;
 - (c) estimates of the receipts and expenditure of Parks Victoria for the next financial year or such other period as the Minister may specify.
- (5) Parks Victoria must consider any comments on a proposed plan that are made to it by the Minister within 2 months after the plan was submitted to the Minister.

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- (6) Parks Victoria must—
- (a) consult in good faith with the Minister following communication to it of the comments; and
 - (b) make such changes to the plans as are agreed between the Minister and Parks Victoria; and
 - (c) deliver the completed plans to the Minister within 2 months after the commencement of the financial year.
- (7) The plans, or any part of a plan, must not be published or made available, except for the purposes of this Part, without the prior approval of Parks Victoria and the Minister.
- (8) A plan may be modified at any time by Parks Victoria with the agreement of the Minister.
- (9) If Parks Victoria, by written notice to the Minister, proposes a modification to a plan, Parks Victoria may, within 14 days, make the modification unless the Minister, by written notice to Parks Victoria, directs Parks Victoria not to make it.
- (10) The Minister may from time to time, by written notice to Parks Victoria, direct Parks Victoria to include any specified matters in or omit any specified matters from a statement of corporate intent, a business plan or estimates.
- (11) Before giving the direction under subsection (9) or (10), the Minister must consult with Parks Victoria as to the matters referred to in the notice.
- (12) Parks Victoria must comply with a direction under this section.

- (13) At any particular time, the statement of corporate intent, the business plan, the financial statements or the estimates for Parks Victoria are the statements, plan and estimates last completed, with any modifications or deletions made in accordance with this Part.

21 Contents of statement of corporate intent of Parks Victoria

A statement of corporate intent of Parks Victoria must specify, in respect of the financial year to which it relates and each of the following 2 financial years, the following information—

- (a) the objectives of Parks Victoria;
- (b) the main undertakings of Parks Victoria;
- (c) the nature and scope of the activities to be undertaken by Parks Victoria;
- (d) the accounting policies to be applied in the accounts;
- (e) the performance targets and other measures by which the performance of Parks Victoria may be judged in relation to its stated objectives;
- (f) the kind of information to be provided to the Minister by Parks Victoria during the course of those financial years, including the information to be included in each annual report;
- (g) any agreements entered into by Parks Victoria with the Secretary to the Department;
- (h) any agreements or arrangements entered into under section 8 for the provision of services;

S. 21(h)
amended by
No. 76/1998
s. 44.

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- (i) such other matters as may be agreed on by the Minister and Parks Victoria from time to time.

22 Parks Victoria to notify Minister of significant affecting events etc.

If Parks Victoria is of the opinion that matters have arisen that may prevent or significantly affect the achievement of—

- (a) the objectives of Parks Victoria under the corporate plan or business plan; or
- (b) financial targets under the corporate plan or business plan—

Parks Victoria must immediately notify the Minister of its opinion and the reasons for the opinion.

**PART 3—TRANSITIONAL PROVISIONS AND
CONSEQUENTIAL AMENDMENTS**

23 Staff to be transferred

- (1) The Secretary to the Department must list in writing the officers and employees of the public service who are employed in the Department who are to become employees of Parks Victoria.
- (2) The chief executive officer of MPW must list in writing the employees of MPW who are to become employees of Parks Victoria.

24 Transfer of staff

- (1) A person listed under section 23 who was an officer or employee of the public service or an employee of MPW immediately before the commencement of this section (*transferred employee*) is to be regarded as—
 - (a) having been employed by Parks Victoria with effect from that commencement; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before that commencement, as an officer or employee of the public service or an employee of MPW; and
 - (c) having accrued an entitlement to benefits in connection with that employment by Parks Victoria, that is equivalent to the entitlement that the person had accrued, as an officer or employee of the public service or an employee of MPW, immediately before that commencement.

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- (2) The service of a transferred employee as an employee of Parks Victoria is to be regarded for all purposes as having been continuous with the service of the transferred employee, immediately before the commencement of this section, as an officer or employee of the public service or an employee of MPW, as the case requires.
 - (3) A transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the public service or an employee of MPW because of this Act.
 - (4) A certificate purporting to be signed by the Secretary to the Department or the chief executive officer of MPW certifying that a person named in the certificate was, with effect from the commencement of this section, employed, by virtue of this section, by Parks Victoria is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.
 - (5) Nothing in this section prevents—
 - (a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from any time after the commencement of this section; or
 - (b) a transferred employee from resigning or being dismissed at any time after that commencement in accordance with the then existing terms and conditions of his or her employment by Parks Victoria.

25 Superannuation

A transferred employee within the meaning of section 24 who, immediately before the commencement of this section, was—

- (a) an officer within the meaning of the **State Superannuation Act 1988**; or
- (b) a contributor within the meaning of the **Emergency Services Superannuation Act 1986**; or
- (c) a member within the meaning of the **State Employees Retirement Benefits Act 1979**; or
- (d) a contributor within the meaning of the **Local Authorities Superannuation Act 1988**; or
- (e) a member within the meaning of the **Transport Superannuation Act 1988**—

continues, subject to that Act, to be an officer, contributor or member within the meaning of that Act while employed by Parks Victoria.

Ss 26–29
repealed by
No. 29/2011
s. 3(Sch. 1
item 65).

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 21 April 1998

Legislative Council: 19 May 1998

The long title for the Bill for this Act was "A Bill to establish Parks Victoria, to amend the **Water Industry Act 1994** and certain Acts and for other purposes."

The **Parks Victoria Act 1998** was assented to on 26 May 1998 and came into operation as follows:

Part 1 (sections 1–3) and section 23 on 26 May 1998: section 2(1); rest of Act on 3 July 1998: Government Gazette 2 July 1998 page 1690.

2. Table of Amendments

This Version incorporates amendments made to the **Parks Victoria Act 1998** by Acts and subordinate instruments.

Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998

Assent Date: 10.11.98
Commencement Date: Ss 43, 44 on 10.11.98: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parks Victoria Act 1998**

Water Industry (Amendment) Act 2000, No. 66/2000

Assent Date: 8.11.00
Commencement Date: Ss 41, 43 on 9.11.00: s. 2(1); ss 40, 42 on 1.12.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Parks Victoria Act 1998**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: S. 25(5)(Sch. 2 item 9) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Parks Victoria Act 1998**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 65) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Parks Victoria Act 1998**

3. Explanatory Details

No entries at date of publication.