

Version No. 003
Lord Mayor's Charitable Fund Act 1996
No. 54 of 1996

Version incorporating amendments as at 23 November 2007

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Version No. 003**Lord Mayor's Charitable Fund Act 1996****No. 54 of 1996**

Version incorporating amendments as at 23 November 2007

Preamble

- (1) The Lord Mayor's Fund for Metropolitan Hospitals and Charities (*the Fund*) was established in 1923 by the then Lord Mayor, Sir John Swanson.
- (2) The Fund was subsequently incorporated by Parliament under the **Lord Mayor's Fund Act 1930** and a Council was constituted under that Act to administer the Fund.
- (3) It is expedient that further provision should be made for the administration of the Fund by re-enacting the **Lord Mayor's Fund Act 1930** with amendments.

The Parliament of Victoria therefore enacts as follows:

PART 1—PRELIMINARY**1 Purpose**

The purpose of this Act is—

- (a) to re-name the Lord Mayor's Fund for Metropolitan Hospitals and Charities; and
- (b) to make new provision for the management and administration of the Fund; and
- (c) to re-define the objects of the Fund; and
- (d) to repeal the **Lord Mayor's Fund Act 1930**.

2 Commencement

- (1) Part 1 comes 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 to be proclaimed.
- (3) If the provisions referred to in subsection (2) do not come into operation before 1 July 1997, they come into operation on that day.

3 Definitions

In this Act—

Board means the Board of Management of the Lord Mayor's Charitable Fund established under Part 3;

charitable organisation means a hospital or benevolent or charitable organisation;

chief executive officer means the person for the time being holding the office of chief executive officer under section 26;

committee (except where used as part of the expression ***executive committee***) means a committee of the Board established under section 21;

executive committee means the committee established under section 18;

former fund means the fund administered by the Lord Mayor's Fund for Metropolitan Hospitals and Charities under the **Lord Mayor's Fund Act 1930**;

Fund means the Lord Mayor's Charitable Fund under Part 2;

eligible charitable organisation means a charitable organisation that is established or carried on within the metropolitan area;

Lord Mayor means the person for the time being holding the office of Mayor of the City of Melbourne, or performing the duties of the Mayor in the absence of the Mayor, or if that office ceases to exist, then the person holding (or performing the duties of) the office which under an Act may be taken expressly or by implication to have replaced that of Mayor of the City of Melbourne;

member means a member of the Board under section 11;

metropolitan area means the metropolitan municipal districts within the meaning of the **Public Holidays Act 1993**;

organisation includes a body corporate or unincorporate, a fund, a trust or a committee;

prescribed organisation means an organisation—

- (a) that is listed in the Schedule and in respect of which a declaration under section 4(a) has not been made; or
- (b) in respect of which a declaration made under section 4(b) is in force;

President means the President of the Board;

rules means rules in force under section 29;

special resolution means a resolution of the Board passed by a majority of at least three-quarters of those members present and voting; and

Vice-President means the Vice-President of the Board.

4 Declarations relating to prescribed organisations

Lord Mayor's Charitable Fund Act 1996
No. 54 of 1996
Part 1—Preliminary

The Governor in Council, on the recommendation of the Board, by notice published in the Government Gazette—

- (a) may declare that an organisation listed in the Schedule has ceased to be a prescribed organisation; or
 - (b) may declare that an organisation named in the notice is a prescribed organisation for the purposes of this Act.
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PART 2—THE LORD MAYOR'S CHARITABLE FUND

5 Continuation of the fund

The former fund—

- (a) continues in existence as a fund under and subject to this Act; and
- (b) is renamed the Lord Mayor's Charitable Fund.

6 Payment of money

- (1) There must be paid into the Fund—
 - (a) all money given to the Fund; and
 - (b) any income from any investment of money credited to the Fund and the proceeds of the sale of any investment; and
 - (c) any income from property held by the Board and the proceeds of the sale of any property.
- (2) There must be paid out of the Fund—
 - (a) money for the benefit of eligible charitable organisations or other organisations in accordance with this Act; and
 - (b) the cost of administering and managing the Fund; and
 - (c) any other costs and expenses incurred by the Board in performing its functions or exercising its powers under this Act.
- (3) The cost of administering and managing the Fund is the first charge against the Fund.

PART 3—THE BOARD

Division 1—Establishment, powers and functions

7 Board to be a body corporate

- (1) There is established a body corporate to be called the "Board of Management of the Lord Mayor's Charitable Fund".
- (2) The Board—
 - (a) has perpetual succession; and
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.
- (3) The seal of the Board must not be used except as prescribed by the rules.
- (4) All courts must—
 - (a) take judicial notice of the seal of the Board that has been affixed to any document; and
 - (b) presume that the seal was duly affixed.

8 Functions of the Board

The functions of the Board are—

- (a) to hold and administer the Fund; and
- (b) to obtain contributions to the Fund whether by gift, settlement, bequest, devise, subscription or any other means if the acceptance is, in the opinion of the Board, in the interests of the Fund; and
- (c) to act as trustee of money or other property given to the Fund and to administer that money or other property in accordance with the conditions of any trust where those conditions are not inconsistent with this Act; and

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- (d) to receive money intended by a donor for transmission to a charitable organisation specified by the donor and transmit it in accordance with the donor's intentions; and
 - (e) to apply from the Fund amounts of money approved by the Board, for the benefit of eligible charitable organisations approved by the Board; and
 - (f) to manage, or assist in the management of, an organisation established for the purpose of obtaining contributions to the Fund; and
 - (g) to confer and co-operate with the government of Victoria, government departments, statutory bodies, municipal councils and other persons or bodies with respect to furthering the objects of the Fund.

9 Powers of the Board

The Board has the power to do all things necessary or convenient to enable it to perform its functions, and in particular may—

- (a) take, purchase, hold, lease, mortgage, sell and dispose of or otherwise deal with, real and personal property; and
- (b) invest money in the Fund in any manner in which money may be invested under the **Trustee Act 1958**; and
- (c) if money or an investment is given to the Fund under a trust, invest the money in an investment or continue an investment in accordance with the terms of the trust.

10 Application of fund money in special circumstances

If—

- (a) the Board is of the opinion that there are special circumstances warranting the application of this section to a charitable organisation which is not an eligible charitable organisation; and
- (b) the Minister approves that application—
that charitable organisation is deemed to be an eligible charitable organisation unless the Board ceases to be of the opinion referred to in paragraph (a) or the Minister revokes the approval.

Division 2—Composition and meetings

11 Membership of Board

The Board consists of—

- (a) the Lord Mayor; and
- (b) not more than 20 other members of whom—
 - (i) not more than 4 members may be co-opted by the Board for a specified term not exceeding 2 years; and
 - (ii) one member may be nominated by each prescribed organisation; and
 - (iii) 4 members may be elected by the Board in an election in which any donor of at least \$200 to the Fund during the year up to the calling of the election is entitled to nominate a candidate; and
 - (iv) 4 members may be elected by the Board in an election in which any charitable organisation which has received a payment from the Fund

S. 11(b)(i)
amended by
No. 67/2003
s. 8(1).

under section 8 or a corresponding previous enactment during the period of 3 years up to the calling of the election is entitled to nominate a candidate.

12 Term of office of members

- (1) A member of the Board referred to in section 11(b)(i) holds office—
- (a) until the expiry of the term of the co-option; or
 - (b) until the commencement of the first ordinary meeting of the Board after the second annual meeting of the Board next following the member's co-option; or
 - (c) until the member is removed or replaced by the Board—

S. 12(1)(b)
amended by
No. 67/2003
s. 8(2).

whichever first occurs.

- (2) A member of the Board referred to in section 11(b)(ii) holds office—
- (a) until the prescribed organisation that nominated that member cancels, by written notice to the chief executive officer, the nomination of that member or nominates another person to be a member; or
 - (b) until the commencement of the first ordinary meeting of the Board after the second annual meeting of the Board next following the member's nomination—

S. 12(2)(b)
amended by
No. 67/2003
s. 8(2).

whichever first occurs.

- (3) A member of the Board referred to in section 11(b)(iii) or 11(b)(iv) holds office until the commencement of the first ordinary meeting of the Board after the second annual meeting of the Board next following the member's election.

S. 12(3)
amended by
No. 67/2003
s. 8(2).

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- (4) A person may be re-nominated, re-co-opted or re-elected as a member of the Board but may not be a member for more than 10 consecutive years unless the Board, by special resolution, approves each further term of office.
- (5) A member of the Board may resign from office by delivering to the chief executive officer a signed letter of resignation.
- (6) A vacancy in the Board occurs if —
- (a) a member of the Board—
 - (i) becomes bankrupt or compounds with, or makes a deed or arrangement for the benefit of, his or her creditors; or
 - (ii) is absent from more than 3 consecutive meetings of the Board without the permission of the Board; or
 - (b) the Board removes a member from office on the ground that the member is incapable of carrying out the duties of a member.
- (7) If a vacancy occurs in the office of a member referred to in section 11(b)(ii), the chief executive officer must immediately on being notified of the vacancy—
- (a) advise the prescribed organisation that nominated the member whose office has become vacant of the vacancy; and
 - (b) ask that prescribed organisation to nominate a successor to that member and advise the Board of the name and address of the successor as soon as possible.

13 President and Vice-President

- (1) The Lord Mayor is the President of the Board.
- (2) The Board must elect a member of the Board as Vice-President of the Board—
 - (a) at the first ordinary meeting of the Board after each annual meeting of the Board; or
 - (b) at the first ordinary meeting of the Board after the occurrence of a vacancy in the office of Vice-President.
- (3) The office of Vice-President becomes vacant—
 - (a) at the commencement of the first ordinary meeting of the Board after each annual meeting of the Board; or
 - (b) upon the holder of the office ceasing to be a member of the Board—

whichever first occurs.

14 Patrons of Fund

The Board may appoint—

- (a) a person as the honorary Patron-in-Chief of the Fund;
- (b) persons as honorary Patrons of the Fund.

15 Meetings of the Board

- (1) An ordinary meeting of the Board must be held at least every 3 months.
- (2) The dates and times of ordinary meetings of the Board must be fixed by resolution of the Board or, if no dates and times are so fixed, by the President.

16 Annual meetings

- (1) An annual meeting of the Board must be held as soon as practicable after 30 June each year on a date fixed by the Board.

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- (2) The agenda for the annual meeting of the Board must include—
- (a) consideration of the financial statements of the Board and the annual report on the affairs of the Board for the 12 months to the 30 June last preceding the meeting submitted by the executive committee under section 19(1)(d); and
 - (b) consideration of the auditor's report on the financial statements of the Board; and
 - (c) the co-option under section 11(b)(i) of persons to be members of the Board; and
 - (d) the election under section 11(b)(iii) and 11(b)(iv) of persons to be members of the Board.
- (3) An annual meeting of the Board is to be public, but only a member of the Board may vote at the annual meeting.

17 Special meetings

- (1) The President or the Vice-President may, at any time, call a special meeting of the Board.
- (2) The chief executive officer must call a special meeting of the Board at the written request of at least 10 members of the Board.

Division 3—The executive committee

18 Establishment and composition

- (1) There shall be an executive committee of the Board.
- (2) The executive committee consists of—
 - (a) the President; and
 - (b) the Vice-President; and
 - (c) 6 other members of the Board.

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- (3) The executive committee members referred to in subsection (2)(c)—
- (a) must be elected by the Board at the first ordinary meeting after each annual meeting; and
 - (b) hold office from the date of their election until the commencement of the first ordinary meeting of the Board after the annual meeting of the Board next following the members' election.
- (4) A casual vacancy in the executive committee may be filled by a member of the Board elected by the members of the Board to fill the vacancy.
- (5) A member of the Board who fills a casual vacancy in the executive committee holds office for the balance of the term of the office of the executive committee member whose office the member is filling.

19 Duties and powers

- (1) The duty of the executive committee is to administer, on behalf of the Board, the money in the Fund and in particular—
- (a) to ensure that the Fund is administered efficiently; and
 - (b) to keep proper accounts and records of income and expenditure of the Fund; and
 - (c) to pass accounts for payment; and
 - (d) to prepare and submit to the annual meeting of the Board the financial statements of the Board and the annual report on the affairs of the Board together with a report by an auditor qualified to audit the affairs of a corporation under the Corporations Law.

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- (2) The Board may, by special resolution, delegate to the executive committee any of its functions or powers except—
 - (a) the power to make rules; and
 - (b) the power to make a recommendation under section 4; and
 - (c) the power to form an opinion under section 10; and
 - (d) this power of delegation.
 - (3) The executive committee may—
 - (a) do all things necessary or convenient to enable it to perform its duties; and
 - (b) may exercise functions or powers delegated to it under subsection (2).
 - (4) The executive committee must report its proceedings to the Board at each ordinary meeting of the Board.

20 Executive committee meetings

- (1) The executive committee is to meet—
 - (a) at the time and place determined by the executive committee; or
 - (b) if no time and place is determined by the executive committee, at the time and place fixed by the President.
 - (2) The President or the Vice-President may, at any time, call a special executive committee meeting.
 - (3) The chief executive officer must call a special executive committee meeting at the written request of at least 3 members of the executive committee.
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Division 4—Committees of Board

21 Establishment

The Board may, by resolution—

- (a) establish committees to perform specified duties and functions as it thinks fit; and
- (b) appoint the members of any such committee; and
- (c) nominate the member of the committee who is to chair it.

Division 5—Procedure

22 Chair

- (1) The President, or in the President's absence, the Vice-President is to preside at a meeting of the Board or of the executive committee.
- (2) If—
 - (a) neither the President nor the Vice-President is present at a meeting of the Board or of the executive committee; or
 - (b) the person nominated to chair a committee is not present when it meets—

the meeting must elect one of their number to preside at the meeting.

23 Quorum

- (1) The quorum for a meeting of the Board is a third of the number of members of the Board.
- (2) The quorum for meetings of the executive committee is half the number of members of the executive committee.

- (3) The quorum for meetings of a committee is—
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- (a) the number fixed by the Board; or
- (b) if no quorum is fixed by the Board, half the number of members of the committee plus one.

24 Notice and conditions of special meetings

- (1) The chief executive officer or other person calling a special meeting of the Board or the executive committee must give members of the Board or the executive committee (as the case requires) 7 days notice of the meeting or notice of a lesser period determined by the Board.
- (2) The notice referred to in subsection (1) must—
 - (a) set out the purpose of the meeting; and
 - (b) be delivered personally or sent by post, telex, facsimile or similar facility to the last known address of each member of the Board or the executive committee (as the case requires).
- (3) A special meeting of the Board or the executive committee must not consider a matter that is not within the purpose of the meeting as set out in the notice under subsection (2)(a).

25 Voting

- (1) Voting at any meeting of the Board, the executive committee or a committee—
 - (a) is to be by a show of hands;
 - (b) is to be by secret ballot if a person present at a meeting (and entitled to vote) requests that a question before the meeting be determined by secret ballot.
- (2) The person presiding at the meeting has a casting vote as well as a deliberative vote.

PART 4—MISCELLANEOUS

26 Staff

- (1) The executive committee—
 - (a) must appoint a chief executive officer of the Board; and
 - (b) may employ or appoint other persons as it thinks fit.
- (2) The executive committee may determine the terms and conditions of service of persons appointed or employed by it, including remuneration and termination of service.
- (3) A person appointed or employed by the executive committee must not accept a commission for money collected or received on behalf of the Fund.

27 Records of proceedings etc.

The Board, the executive committee and committees must keep proper records of their proceedings and affairs.

28 Annual report

The Board may publish and circulate the annual report of the affairs of the Board in such manner as it sees fit.

29 Rules

The Board may, by special resolution, make rules for or with respect to—

- (a) the management and administration of the Fund; and
- (b) elections of Board members and executive committee members and co-option of persons as members of the Board; and

- (c) meetings of the Board, the executive committee or a committee and business transacted at those meetings; and
 - (d) the procedure and conduct of business of the Board, the executive committee or a committee; and
 - (e) the custody and use of the corporate seal;
and
 - (f) the powers and duties of persons appointed or employed by the Board; and
 - (g) the control, supervision and discipline of persons appointed or employed by the Board.
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PART 5—REPEAL AND TRANSITIONAL

30 Repeal of Lord Mayor's Fund Act 1930

The **Lord Mayor's Fund Act 1930** is repealed.

31 Board to succeed incorporated body

- (1) The Board is the successor in law of the Lord Mayor's Fund for Metropolitan Hospitals and Charities established under the **Lord Mayor's Fund Act 1930** (in this section called *the Fund*).
- (2) All rights, property and money vested in the Fund immediately before the commencement of this section are, by force of this subsection, vested in the Board.
- (3) All debts, liabilities and obligations of the Fund existing immediately before the commencement of this section become, by force of this subsection, debts, liabilities and obligations of the Board.
- (4) The Board is, by force of this subsection, substituted as a party to any proceedings pending in any court to which the Fund was a party immediately before the commencement of this section.
- (5) The Board is, by force of this subsection, substituted as a party to any arrangement or contract entered into by or on behalf of the Fund as a party and in force immediately before the commencement of this section.
- (6) Any act, matter or thing done by or in relation to the Fund before the commencement of this subsection has effect as if it had been done by or in relation to the Board and continues to have the same effect after that commencement as it had before then.

32 Transition of Patrons, Council members and office-bearers

(1) In this section—

Council means the council constituted under the
Lord Mayor's Fund Act 1930.

(2) Despite anything to the contrary in this Act, all Patrons, members of the Council and office-bearers of the Fund (within the meaning of section 31(1)) as at the commencement of this section are deemed to have been appointed or elected as Patrons, members or office-bearers (as the case requires) of the Board or the Fund (within the meaning of section 3) for a term ending at the commencement of the first ordinary meeting of the Board following the first annual meeting after the commencement of this section.

(3) After the commencement of this section and before the commencement of the first ordinary meeting of the Board following the next annual meeting after the commencement of this section, a casual vacancy in the Board may only be filled—

- (a) insofar as the number of co-opted members of the Board falls below 4; or
- (b) to restore the number of Vice-Presidents to one.

33 References to Council and former fund

In any Act, subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** or any other document whatsoever, in relation to any period after the commencement of this section and unless inconsistent with the context or subject matter—

- (a) a reference to the fund known as the "Lord Mayor's Fund" or the "Lord Mayor's Fund for Metropolitan Hospitals and Charities" is to be taken to be a reference to the Fund within the meaning of this Act; and

(b) a reference to the "Lord Mayor's Charitable Fund Council" or to the "Lord Mayor's Fund for Metropolitan Hospitals and Charities" as a body corporate is to be taken to be a reference to the Board within the meaning of this Act.

34 Further transitional

S. 34
inserted by
No. 67/2003
s. 9.

- (1) A person who held office as a member of the Board immediately before the commencement of section 8 of the **Health Legislation (Amendment) Act 2003** whose name is drawn by lot by the President under subsection (3) continues to hold office until the commencement of the first ordinary meeting of the Board after the second annual meeting of the Board after that member was elected.
- (2) The remaining members of the Board who held office as members of the Board immediately before the commencement of section 8 of the **Health Legislation (Amendment) Act 2003** hold office until the commencement of the first ordinary meeting of the Board after the annual meeting of the Board after that member was elected.
- (3) The President must draw by lot the names of 2 members of the Board appointed under section 11(b)(iii) and 2 members appointed under section 11(b)(iv) who are to hold office in accordance with subsection (1).

Sch.

SCHEDULE

Australian Medical Association (Victorian Branch).

Australian Society of Certified Practising Accountants
(Victorian Branch), and Institute of Chartered Accountants
(Victorian Branch), jointly.

Children's Welfare Association of Victoria.

Friendly Societies Association of Victoria.

Hospitals and Charities Sunday Committee.

Law Institute of Victoria.

Victorian Hospitals Association.

Victorian Employers Chamber of Commerce and Industry.

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 31 October 1996

Legislative Council: 19 November 1996

The long title for the Bill for this Act was "A Bill to repeal and re-enact with amendments the **Lord Mayor's Fund Act 1930** and for other purposes."

The **Lord Mayor's Charitable Fund Act 1996** was assented to on 10 December 1996 and came into operation as follows:

Part 1 (sections 1–4) on 10 December 1996: section 2(1); rest of Act on 1 February 1997: Government Gazette 23 January 1997 page 146.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Lord Mayor's Charitable Fund Act 1996** by Acts and subordinate instruments.

Health Legislation (Amendment) Act 2003, No. 67/2003

Assent Date: 14.10.03

Commencement Date: Ss 8, 9 on 15.10.03: s. 2(1)

Current State: This information relates only to the provision/s amending the **Lord Mayor's Charitable Fund Act 1996**

3. Explanatory Details

No entries at date of publication.