



Victoria Government Gazette

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State Owned Enterprises Act 1992

ORDER DECLARING THE VICTORIAN BUILDING AUTHORITY BOARD AS A REORGANISING BODY AND CHANGING THE CONSTITUTION OF THE VBA BOARD

Order in Council

The Governor in Council –

- (1) under section 7(1) of the **State Owned Enterprises Act 1992** (the **Act**), declares the Victorian Building Authority, the body corporate established under section 193 of the **Building Act 1993**, to be a reorganising body; and
- (2) under section 8(4) of the Act, removes the Commissioners, being members of the VBA Board (as defined in section 3(1) of the **Building Act**), who were Commissioners immediately before this Order takes effect, as Commissioners; and
- (3) under section 8(1) and (2)(a) of the Act, changes the number of members of the VBA Board to one member (the sole Commissioner) appointed by the Governor in Council on the recommendation of the Minister for Planning; and
- (4) under section 8(2)(b) of the Act, determines that the terms and conditions of appointment, and qualifications, of the sole Commissioner of the VBA Board are as set out in Schedule 1 to this Order; and
- (5) under section 8(1) and (2)(d) of the Act, makes other changes to the constitution of the VBA Board as set out in Schedule 2 to this Order.

This Order comes into effect on 31 March 2024.

Dated: 13 March 2024

Responsible Minister:

TIM PALLAS MP

Treasurer

ANGELA SMITH
Clerk of the Executive Council

SPECIAL

State Owned Enterprises Act 1992

ORDER DECLARING THE VICTORIAN BUILDING AUTHORITY BOARD AS A REORGANISING BODY AND CHANGING THE CONSTITUTION OF THE VBA BOARD SCHEDULE ONE – TERMS AND CONDITIONS OF APPOINTMENT OF SINGLE MEMBER (THE SOLE COMMISSIONER)

1 Term of Appointment

- (1) Subject to this clause, the sole Commissioner holds office for a period, not exceeding two years, specified in the instrument of their appointment.
- (2) The sole Commissioner is eligible for re-appointment.
- (3) The instrument of appointment of a member of the sole Commissioner may specify terms and conditions of appointment not inconsistent with the **Building Act 1993** or the regulations under that Act.
- (4) The sole Commissioner can be removed from office by the Minister.

2 Qualifications required of the sole Commissioner

- (1) The sole Commissioner must have the qualifications (including any skills, experience and knowledge) determined by the Minister from time to time.
- (2) In making a recommending to the Governor in Council for the appointment of the sole Commissioner, the Minister may (but does not have to) consult with Ministers responsible for administering portfolios related to the regulatory activities of the Victorian Building Authority.

3 Remuneration and allowances

The sole Commissioner is entitled to receive –

- (a) remuneration; and
 - (b) travelling or other allowances –
- from time to time fixed by the Minister.

4 Vacancies

- (1) The sole Commissioner may resign by letter signed by the sole Commissioner and delivered to the Minister.
- (2) The office of the sole Commissioner becomes vacant if the sole Commissioner –
 - (a) becomes bankrupt; or
 - (b) is convicted in Victoria of an offence punishable on first conviction with imprisonment for a term of 12 months or more or is elsewhere convicted of an offence which, if committed in Victoria, would be so punishable; or
 - (c) ceases to hold a position or qualification which made the sole Commissioner eligible for appointment as the sole Commissioner.

5 Application of Public Administration Act 2004

The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the sole Commissioner in respect of the office of the sole Commissioner.

6 Office of sole Commissioner not office or place of profit

The sole Commissioner must not, in respect of the office of sole Commissioner, be taken to hold an office or place of profit under the Crown which would –

- (a) prevent the sole Commissioner sitting or voting as a member of the Legislative Council or Legislative Assembly; or
- (b) make void the sole Commissioner's election to the Legislative Council or Legislative Assembly; or
- (c) prevent the sole Commissioner continuing to be a member of the Legislative Council or Legislative Assembly; or
- (d) subject the sole Commissioner to liability to a penalty under the **Constitution Act 1975**.

State Owned Enterprises Act 1992**ORDER DECLARING THE VICTORIAN BUILDING AUTHORITY BOARD AS A REORGANISING BODY AND CHANGING THE CONSTITUTION OF THE VBA BOARD
SCHEDULE TWO – OTHER CHANGES TO THE CONSTITUTION OF THE VBA BOARD****1 Sole Commissioner may also be chief executive officer**

The sole Commissioner of the VBA Board may also be the chief executive officer of the Victorian Building Authority.

2 Acting members

- (1) If the sole Commissioner is unable to perform the duties of their office, the Minister may appoint a person to act in the place of the sole Commissioner during that period of inability.
- (2) An acting appointment is to be for any term and on any conditions determined by the Minister.
- (3) The Minister may at any time terminate an acting appointment.
- (4) An acting sole Commissioner has all the functions of the sole Commissioner.
- (5) An acting sole Commissioner is entitled to receive any remuneration or travelling or other allowances fixed from time to time by the Minister in respect of that acting sole Commissioner.
- (6) The provisions of Schedule One to the Order and this Schedule applying to the sole Commissioner (except clause 2 of Schedule One) also apply to an acting sole Commissioner.

3 Pecuniary interests

- (1) If the sole Commissioner has a direct or an indirect pecuniary interest in a matter which is about to be or is being considered by them, the sole Commissioner must as soon as possible after the relevant facts come to their knowledge disclose the nature of the interests to the Minister.
- (2) An act or decision of the sole Commissioner is not invalid merely because the sole Commissioner contravenes subclause (1).
- (3) Subclause (2) does not prevent the sole Commissioner being removed from office because they have contravened subclause (1).
- (4) For the purposes of this clause, the sole Commissioner must not be taken to have a pecuniary interest in a matter merely because the sole Commissioner is engaged in the building industry or in any matter connected with that industry.
- (5) Without limiting what is a pecuniary interest in a matter for the purposes of this clause, a person must be taken to have a pecuniary interest in a matter relating to a building or building work if the person –
 - (a) is or was involved in designing the building; or
 - (b) has assisted in preparing or making an application for a building permit or occupancy permit for the building or work; or
 - (c) is the relevant building surveyor in respect of an application for a permit for that building or building work.

4 Decisions not affected by certain matters

An act or decision of the sole Commissioner is not invalid only because –

- (a) of a defect or irregularity in the appointment of the sole Commissioner or acting sole Commissioner; or
- (b) the occasion for the appointment of an acting sole Commissioner has ceased to exist.

5 Clauses 10 and 11 of Schedule 3 to the Building Act 1993 not to apply

Clauses 10 and 11 of Schedule 3 to the **Building Act 1993** do not apply to the VBA Board.

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