

Western Australia

Perth Market By-laws 1990

STATUS OF THIS DOCUMENT

This document is from an electronic database of legislation maintained by the Parliamentary Counsel's Office of Western Australia.

DISCLAIMER

No warranty is given as to the accuracy or completeness of this document. The State of Western Australia and its agents and employees disclaim liability, whether in negligence or otherwise, for any loss or damage resulting from reliance on the accuracy or completeness of this document.

REPRINT AND CONSOLIDATION NUMBERING

The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as "Reprint 3" would mean that the reprint was the 3rd reprint since the Act was passed. A consolidation described as "Consolidation 3a" would be the result of updating Reprint 3 for the first time to reflect the amendments since the date as at which Reprint 3 was prepared.

Reprint and consolidation numbering was implemented as from 1 January 2003.

COPYRIGHT

Copyright in this document is reserved to the Crown in right of the State of Western Australia. Reproduction except in accordance with copyright law is prohibited.

THE TEXT OF THE LEGISLATION FOLLOWS

Perth Market By-laws 1990

CONTENTS

Part 1 — Preliminary		
1.	Citation	1
2.	Commencement	1
3.	Interpretation	1
Part 2 — The Authority		
4.	Common seal	3
5.	Custody of seal	3
6.	Affixing of common seal	3
7.	Sealing clause	3
8.	Register of affixing common seal	3
Part 3 — General		
9.	Market entry restricted to lawful business	5
10.	Unlawful removal of produce prohibited	5
11.	Depositing litter prohibited	5
12.	Assemblies without permission prohibited	5
13.	Control of smoking	6
14.	Disorderly behaviour	6
15.	Obscene material prohibited	6
16.	Restriction on signs	6
17.	Restriction on use of alcohol	7
18.	No obstructions	7
19.	Restriction on animals	8
20.	No interference with Authority property	8
21.	Restrictions on fire hose use	8

Contents

22.	Handling of refuse	8
23.	Expectorating, urinating, defecating prohibited	9
Part 4 — Control of trading		
Division 1 — General		
24.	Solicitation of business	10
25.	Sales and purchases	10
26.	Minimum sales	11
26A.	Packaging	11
29.	Prohibition on auctions outside public market	11
30.	No stalls within 500 metres of public market	11
31.	Prohibition on sales in public markets	12
32.	Wholesale sales by agent prohibited outside public market	12
Division 2 — Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements		
32A.	Application of Division	12
32AA.	Meaning of “exempt supply agreement”	13
32B.	Duties of occupier to provide certain documents relating to supply and sale of prescribed produce	13
32C.	Duty of occupier to pay supplier	15
32D.	Prescribed produce unfit for sale	16
32E.	Disposal of prescribed produce unfit for sale	17
32F.	Liability for costs	18
32G.	Restrictions on sale of prescribed produce	19
32H.	Occupiers to keep copies of documents and agreements	19
32I.	Occupier to produce documents and allow inspection	20
32J.	Occupier not to purchase prescribed produce or sell prescribed produce to associates unless authorised	21
32K.	Associated persons	22
32L.	Review	23
Part 5 — Control of vehicles		
33.	Interpretation	25
34.	Certificate of authorisation under section 13C(2)	25
35.	Times for delivery and collection	25
36.	Vehicles entry and exit	26

37.	Speed limit	27
38.	Parking	27
39.	Driver of vehicle to comply with directions of inspector	29
40.	Inspector may give directions	29
41.	Removal of notice prohibited	29
42.	Identification plates for registered forklifts	30
42A.	Licensing of forklift drivers	30
42B.	Control of forklifts	31
	Part 6 — Miscellaneous	
43.	Infringement notices	33
44.	Powers of inspectors	33
45.	Inspector may require name and address	34
46.	Destruction of produce unfit for sale	34
	Schedule 1	35
	Schedule 2	36
	Schedule 3	39
	Notes	
	Compilation table	41

Western Australia

Perth Market Act 1926

Perth Market By-laws 1990

Part 1 — Preliminary

1. Citation

These by-laws may be cited as the *Perth Market By-laws 1990*¹.

2. Commencement

These by-laws shall come into operation on 1 January 1991.

3. Interpretation

(1) In these by-laws, unless the contrary intention appears —

“authorised person” means a person authorised by the Authority;

“central trading area” means that part of the public market that is included in the building used by occupiers for the purposes of the sale or display of general produce;

“certificate of condemnation” means a certificate that certifies that prescribed produce is unfit for sale;

“common area” means the area of the public market that comprises roads, parking areas and access areas that are open to the public but does not include the area of the public market comprised in the premises of occupiers;

bl. 3

“forklift” means a vehicle propelled by mechanical means that is designed to lift and move goods and produce;

“form” means a form in Schedule 2;

“inspector” means a person appointed by the Authority under section 10 of the Act;

“manager” means the person appointed by the Authority under section 10 of the Act;

“occupier” means a person who is an occupier of premises in the public market;

“the public market” means the market established pursuant to section 11 of the Act;

“written agreement” means a written agreement between a supplier of prescribed produce and an occupier that is signed or otherwise executed by both parties to the agreement.

- (2) Cut flowers, meat and fish are prescribed as “general produce” for the purposes of the meaning of the term “general produce” in section 1A of the Act.
- (3) In sub-by-law (2) **“fish”** means any kind of fish, crustacea or marine animal which has not been subjected to any process other than freezing.

[By-law 3 amended in Gazette 15 Jan 1999 p. 110; 28 Jul 2000 p. 3988.]

Part 2 — The Authority

4. Common seal

The common seal of the Authority shall be in the form of 2 concentric circles containing the words “Common Seal” in the space enclosed by the circles and the name of the Authority between the circles.

5. Custody of seal

The manager shall hold the common seal in safe custody and available for use as authorised by these by-laws.

6. Affixing of common seal

- (1) The manager may affix the common seal to all documents and classes of documents which the Authority has authorised to be sealed with the common seal.
- (2) The affixing of the common seal to any document shall be attested by signatures of a member thereof and the manager or in the absence of the manager by 2 members of the Authority.

7. Sealing clause

Whenever the common seal is affixed to a document the following sealing clause shall be inserted in the document —

“ The common seal of the Perth Market Authority was hereto affixed on the day of 20 by authority of the Authority. ”.

8. Register of affixing common seal

The manager shall maintain a register of the use of the common seal in which he shall record in respect of each document to which the common seal is affixed —

- (a) particulars of the nature of the document;
- (b) the date of the document;

bl. 8

- (c) the authority for the affixing of the common seal;
- (d) the names and titles of the persons attesting the affixing of the common seal.

Part 3 — General

9. Market entry restricted to lawful business

A person shall not, whether in a vehicle or not, enter or remain in the public market or in any part thereof except for or in connection with a lawful purpose connected with the public market.

Penalty: \$300.

10. Unlawful removal of produce prohibited

A person who unlawfully removes any general produce or other goods from the premises of an occupier or from any other part of the public market commits an offence.

Penalty: \$600.

11. Depositing litter prohibited

A person shall not within the public market throw, deposit or leave rubbish, refuse, paper, bottles, glass (broken or otherwise) or litter of any kind except in a receptacle provided for the purpose.

Penalty: \$400.

12. Assemblies without permission prohibited

A person who —

- (a) conducts, organizes or takes part in any procession, meeting or assembly in the public market without the prior written consent thereto of the Authority or who conducts, organizes or takes part in any such procession, meeting or assembly in any way contrary to any condition to which such consent was made subject; or

bl. 13

- (b) after being notified that any procession, meeting or assembly in the public market is contrary to any condition to which consent thereto was made subject, continues to conduct, organize or take part in such procession, meeting or assembly, commits an offence.

Penalty: \$500.

13. Control of smoking

A person shall not smoke in any area of the public market in which smoking is prohibited pursuant to a notice erected in that area by the Authority.

Penalty: \$200.

14. Disorderly behaviour

A person shall not in the public market —

- (a) assault an inspector;
- (b) use abusive or insulting language to an inspector; or
- (c) behave in a disorderly manner or in a manner which causes or is likely to cause nuisance or annoyance to any other person.

Penalty: \$1 000.

15. Obscene material prohibited

A person shall not in the public market write, print or publish any indecent or obscene words, images, pictures or material of any kind or draw, display, print, publish or engage in the distribution of any indecent or obscene pictures, images, representations, magazines, books or other material of any kind.

Penalty: \$200.

16. Restriction on signs

A person shall not without the prior written consent of the Authority affix, paint or otherwise exhibit or permit to be

affixed, painted or otherwise exhibited to or on any part of the public market including the roof, external walls, passageways, stairways and entrances or windows or doors thereof any placard, poster, advertisement, other drawing or writing, sign board, blind, awning, canopy, television or wireless antenna or mast.

Penalty: \$200.

17. Restriction on use of alcohol

A person shall not —

- (a) without the prior written consent of the Authority, bring, keep or consume any alcoholic beverage in the public market; or
- (b) enter or remain in the public market when under the influence of alcohol or a drug, to such an extent that the person's judgement is impaired thereby.

Penalty: \$400.

18. No obstructions

- (1) A person shall not, without the prior written consent of the Authority, place or leave any goods or other thing on a road or footway or in any part of the common area of the public market so as to cause an obstruction therein.

Penalty: \$300.

- (2) An occupier shall not, without the prior written consent of the Authority, leave, place or permit or cause to be placed any goods or other thing in or on any road or footway adjacent to the premises occupied by the occupier.

Penalty: \$300.

bl. 19

19. Restriction on animals

- (1) A person shall not bring or allow any animal into the public market unless the animal is confined to the motor vehicle of that person.
Penalty: \$200.
- (2) Sub-bylaw (1) does not apply to a dog used for the purposes of guiding a blind person.

20. No interference with Authority property

A person shall not —

- (a) without the prior written consent of the Authority, interfere with any property of the Authority in the public market; or
- (b) damage any property of the Authority in the public market.

Penalty: \$1 000.

21. Restrictions on fire hose use

A person shall not —

- (a) interfere with or damage any fire service or related equipment, being the property of the Authority; or
- (b) without the permission of the Authority, take water from such fire service or related equipment for purposes other than fire fighting.

Penalty: \$1 000.

22. Handling of refuse

- (1) An occupier shall ensure that any common area adjacent to that occupier's premises is kept clear of rubbish, refuse or other material for a distance not less than 1 m.

- (2) An occupier shall cause the receptacles in which such rubbish, refuse and other material are deposited to be made available for collection at the place appointed by the Authority.
- (3) A person shall not place any liquid refuse in a receptacle provided pursuant to this by-law.
- (4) A person who contravenes sub-by-law (1), (2) or (3) commits an offence.
Penalty: \$300.

23. Expectorating, urinating, defecating prohibited

A person shall not, in the public market, expectorate, urinate or defecate except in the appropriate toilet facilities provided by the Authority and shall, after using those facilities, leave them clean and flushed except where flushing is done automatically.
Penalty: \$1 000.

Part 4 — Control of trading

Division 1 — General

[Heading inserted in Gazette 28 Jul 2000 p. 3988.]

24. Solicitation of business

- (1) A person shall not, in or upon any of the common area of the public market, without the prior written consent of the Authority, solicit business of any kind.
Penalty: \$200.
- (2) A person, other than an employee of the occupier, shall not, in or upon the premises of an occupier, without the consent of the occupier, solicit business or cause or permit business to be solicited for any purpose otherwise than for or in connection with the business of the occupier.
Penalty: \$200.

25. Sales and purchases

- (1) A person who is not an occupier or an agent or an employee of an occupier shall not, except with the prior written consent of the Authority, sell or offer to sell within the public market any general produce or other goods or merchandise.
Penalty: \$400.
- (2) A person shall not, without the prior written consent of the Authority, buy or offer to buy in the public market any general produce or other goods or merchandise except on and from a portion of the public market that are premises of an occupier.
Penalty: \$400.

26. Minimum sales

An occupier shall not in the central trading area sell any general produce in an amount less than the amount specified in relation to that kind of produce in Schedule 3.

Penalty: \$400.

26A. Packaging

- (1) An occupier shall not in the central trading area display, offer for sale, or sell any general produce in packaging containing less than the amount specified in relation to that kind of produce in Schedule 3.
- (2) An occupier shall not in the central trading area display, offer for sale, or sell any general produce which is not in packaging, unless the produce is of a kind which, under by-law 26 and item 11 of Schedule 3, may be sold individually.

Penalty: \$400.

[By-law 26A inserted in Gazette 9 Dec 1997 p. 7169.]

[27, 27A, 28. Repealed in Gazette 28 Jul 2000 p. 3988.]

29. Prohibition on auctions outside public market

A person shall not outside the public market —

- (a) in the metropolitan area, sell by auction any general produce;
- (b) in the prescribed area, sell by auction any prescribed produce.

Penalty: \$1 000.

30. No stalls within 500 metres of public market

A person shall not within a distance of 500 metres from any external boundary of the public market, sell any general produce except on and from the premises of that person.

Penalty: \$500.

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 31

31. Prohibition on sales in public markets

A person shall not —

- (a) in the metropolitan area, sell any general produce;
- (b) in the prescribed area, sell any prescribed produce,

in a public market other than the public market except with the prior written consent thereto of the Authority.

Penalty: \$1 000.

32. Wholesale sales by agent prohibited outside public market

A person shall not outside the public market —

- (a) in the metropolitan area, sell by wholesale any general produce;
- (b) in the prescribed area, sell by wholesale any prescribed produce,

by an agent.

Penalty: \$1 000.

Division 2 — Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

[Heading inserted in Gazette 28 Jul 2000 p. 3988.]

32A. Application of Division

- (1) This Division applies in relation to prescribed produce supplied otherwise than under an exempt supply agreement.
- (2) Except as provided for in a provision of this Division, this Division applies despite anything to the contrary in an agreement.
- (3) In sub-bylaw (1) —
“**exempt supply agreement**” has the meaning given in by-law 32AA.

[By-law 32A inserted in Gazette 28 Jul 2000 p. 3988-9; amended in Gazette 20 Oct 2000 p. 5900.]

32AA. Meaning of “exempt supply agreement”

- (1) An agreement is an “**exempt supply agreement**” for the purposes of by-law 32A if it is an agreement to which sub-by-law (2), (3) or (4) applies.
- (2) This sub-by-law applies to a written agreement —
 - (a) that —
 - (i) is entered into by the supplier and the occupier before the produce to be supplied under the agreement leaves the premises of the supplier; and
 - (ii) except as provided for in paragraph (b), is not subsequently varied;
 - (b) that specifies the price for the produce, the circumstances in which the price may be varied and the terms of payment of the price; and
 - (c) under which the produce becomes the property of the occupier.
- (3) This sub-by-law applies to an agreement for the supply to an occupier of prescribed produce that has been sold to the supplier.
- (4) This sub-by-law applies to an agreement for the supply to an occupier of prescribed produce from outside Western Australia.

[By-law 32AA inserted in Gazette 20 Oct 2000 p. 5900-1.]

32B. Duties of occupier to provide certain documents relating to supply and sale of prescribed produce

- (1) Within 7 days (or another period agreed by the occupier and the supplier in a written agreement) after an occupier is supplied with prescribed produce for the purpose of sale by the occupier, the occupier is to give to the supplier a receipt that specifies —
 - (a) the type and quantity of produce supplied to the occupier;

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32B

- (b) the date on which the produce was supplied to the occupier; and
- (c) unless the occupier gives details of the produce to the supplier under by-law 32D(1) — details of any produce that the occupier considers unfit for sale and the reasons for that opinion.

[(2) and (3) repealed]

- (4) Within 7 days (or another period agreed by the occupier and the supplier in a written agreement) after the end of the period mentioned in paragraph (a), an occupier who sells prescribed produce is to give to the supplier a sale note that specifies —
 - (a) the period of not more than 3 days within which the produce was sold to the buyer;
 - (b) the amount that is the difference between —
 - (i) the total amount (excluding any amount paid or payable for interstate or overseas freight) paid or payable by the buyer to the occupier for the purchase of the produce; and
 - (ii) the total amount payable by the occupier to the supplier for the supply of that produce.
- (5) An occupier is to specify in a sale note given under sub-bylaw (4) details of each amount that makes up at least 10% of the difference referred to in paragraph (b) of that sub-bylaw.
- (6) Unless it is otherwise agreed by the occupier and the supplier in a written agreement, and subject to sub-bylaw (6a), an occupier is to specify in a sale note given under sub-bylaw (4) —
 - (a) the quantity of, and the price paid or payable by the buyer to the occupier for, each separate grade, size and variety of produce sold to the buyer;
 - (b) the price payable by the occupier to the supplier for each separate grade, size and variety of produce sold to the buyer; and

- (c) the quantity, grade, size and variety of any produce that —
 - (i) formed part of the same consignment of produce supplied by the supplier; and
 - (ii) has not been sold.
- (6a) In complying with sub-bylaw (6), an occupier is not required to give information relating to the grade, size or variety of produce that is more detailed than the information relating to those matters given by the supplier when supplying the produce.
- (7) Within 7 days after the end of the period mentioned in sub-bylaw (4)(a), an occupier who sells prescribed produce is to give to the buyer an invoice that specifies —
 - (a) the date on which the produce was sold to the buyer;
 - (b) an accurate description of the produce sold to the buyer; and
 - (c) the price for which the produce was sold to the buyer and the terms of payment of that price.

*[By-law 32B inserted in Gazette 28 Jul 2000 p. 3989-90;
amended in Gazette 20 Oct 2000 p. 5901-2.]*

32C. Duty of occupier to pay supplier

- (1) Within 21 days (or another period agreed by the occupier and the supplier in a written agreement) after the end of the period mentioned in by-law 32B(4)(a), an occupier who sells an item of prescribed produce is to pay the supplier for that produce.
- (1a) If a period of more than 21 days is agreed by the occupier and the supplier under sub-bylaw (1), the supplier is to provide a signature in the agreement at the place where the period is specified.
- (2) If circumstances outside the occupier's control prevent the full amount to be paid to the supplier from being determined within the period provided for under sub-bylaw (1), the occupier is to

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32D

make a reasonable estimate of that amount and is to pay the estimated amount within that period to the supplier.

- (3) If an occupier pays an estimated amount under sub-by-law (2), the occupier is as soon as is practicable to determine the full amount payable to the supplier and give the supplier details of that determination and, within 60 days after the end of the period mentioned in by-law 32B(4)(a) —
- (a) the occupier is to pay to the supplier any amount by which the full amount exceeds the estimated amount; or
 - (b) the supplier is to repay to the occupier any amount by which the estimated amount exceeds the full amount,
- as the case requires.

- (4) Unless it is otherwise agreed by the occupier and the supplier in a written agreement, an amount payable under sub-by-law (1) is to include any amount paid by the supplier as a deposit on a container hired by the supplier for the purpose of supplying the prescribed produce to the occupier.

[By-law 32C inserted in Gazette 28 Jul 2000 p. 3990-1; amended in Gazette 20 Oct 2000 p. 5902-3.]

32D. Prescribed produce unfit for sale

- (1) Unless it is otherwise agreed by the occupier and the supplier in a written agreement, as soon as is practicable after an occupier forms the opinion that prescribed produce supplied to the occupier is unfit for sale, the occupier is to make reasonable efforts to give the supplier details of that produce.
- (2) If an occupier gives a supplier details of prescribed produce that the occupier considers unfit for sale, the supplier may —
- (a) take possession of the produce;
 - (b) ask the occupier to send the produce to a specified person at a specified place; or

-
- (c) ask the occupier to have the condition of the produce assessed by a person (an “**assessor**”) who the occupier and supplier agree —
- (i) is independent of the occupier and the supplier; and
 - (ii) has experience or qualifications appropriate to the performance of the assessment.
- (3) If —
- (a) the condition of prescribed produce is to be assessed under paragraph (c) of sub-bylaw (2); and
 - (b) the occupier and the supplier are unable to agree to an assessor for the purposes of that paragraph,

a person nominated by the Authority is to be the assessor for those purposes.

[By-law 32D inserted in Gazette 28 Jul 2000 p. 3991-2.]

32E. Disposal of prescribed produce unfit for sale

- (1) If —
- (a) despite making reasonable efforts to do so, an occupier is unable to contact a supplier for the purposes of by-law 32D(1); or
 - (b) after an occupier has given a supplier details of prescribed produce that the occupier considers unfit for sale, the supplier does not —
 - (i) take possession of the produce; or
 - (ii) ask the occupier to send the produce to a specified person at a specified place or have the condition of the produce assessed under by-law 32D(2),

the occupier may, subject to sub-bylaw (2), dispose of the produce as the occupier thinks fit.

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32F

- (2) An occupier may dispose of prescribed produce under sub-by-law (1) only if —
- (a) at least 24 hours have passed since the occupier first attempted to contact the supplier in relation to the produce or since the occupier gave the supplier details of the produce, as the case requires; and
 - (b) an assessment has been made of, and a certificate of condemnation obtained from the assessor in relation to, the produce.

[By-law 32E inserted in Gazette 28 Jul 2000 p. 3992.]

32F. Liability for costs

- (1) A supplier who asks an occupier to send prescribed produce to a specified person at a specified place under by-law 32D(2)(b) is liable for any reasonable costs incurred by the occupier in complying with that request.
- (2) A supplier who supplies prescribed produce that an occupier disposes of under by-law 32E(1) is liable for any reasonable costs incurred by the occupier in —
- (a) obtaining an assessment of, and a certificate of condemnation in relation to, the produce; and
 - (b) disposing of the produce.
- (3) If an occupier gives a supplier details of the costs incurred by the occupier for which the supplier is liable under sub-by-law (1) or (2), the occupier may —
- (a) deduct those costs from any amount payable by the occupier to the supplier in relation to the supply of prescribed produce; or
 - (b) to the extent that those costs are not deducted under paragraph (a), recover them in a court of competent jurisdiction as a debt due to the occupier.

[By-law 32F inserted in Gazette 28 Jul 2000 p. 3992-3.]

32G. Restrictions on sale of prescribed produce

- (1) Unless authorised to do so by a document to which sub-bylaw (2) applies, an occupier who sells, or offers to sell, prescribed produce in the public market between 7.30 a.m. and 12 noon on a Saturday commits an offence.
Penalty: \$2 000.
- (2) This sub-bylaw applies to a document that is —
- (a) a written agreement, under which the prescribed produce is supplied to the occupier, that includes provisions that enable the supplier, either in the agreement or in a separate written notice, to elect to authorise, or not to authorise, the occupier for the purposes of sub-bylaw (1); or
 - (b) a written notice, as provided for in the agreement referred to in paragraph (a), given by the supplier to the occupier.
- (3) A written agreement or written notice referred to in sub-bylaw (2) may give an authorisation that applies to —
- (a) prescribed produce in general; or
 - (b) prescribed produce specified by reference to grade, size or variety.

[By-law 32G inserted in Gazette 28 Jul 2000 p. 3993.]

32H. Occupiers to keep copies of documents and agreements

- (1) An occupier is to keep for 2 years after being supplied with prescribed produce for the purpose of sale by the occupier or after selling prescribed produce —
- (a) a copy of any receipt, notice, sale note or invoice (in this by-law and by-law 32I referred to as a “**prescribed document**”) given by the occupier in relation to the supply or sale of the prescribed produce; and

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32I

- (b) any account, book, record or other document that relates to that supply or sale.
- (2) An occupier may comply with sub-bylaw (1) —
 - (a) by keeping the prescribed document or other document itself; or
 - (b) by recording or storing the prescribed document or other document by means of an electronic process that —
 - (i) keeps the particulars recorded or stored in the form in which they were originally recorded or stored; and
 - (ii) enables those particulars to be reproduced in written form.
- (3) If an occupier enters into a written agreement, the occupier is to keep a copy of the agreement for 2 years after the day on which the agreement ceases to have effect.

[By-law 32H inserted in Gazette 28 Jul 2000 p. 3994; amended in Gazette 20 Oct 2000 p. 5903.]

32I. Occupier to produce documents and allow inspection

- (1) The manager or an authorised person may during normal business hours require an occupier —
 - (a) to produce; or
 - (b) to allow the manager or authorised person to inspect, or take extracts from or copies of,a prescribed document or other document or written agreement that the occupier is required to keep under by-law 32H.
- (2) An occupier who —
 - (a) fails to comply with a requirement under sub-bylaw (1); or

- (b) hinders or obstructs the manager or authorised person in the performance of a function under that sub-bylaw,

commits an offence.

Penalty: \$2 000.

[By-law 32I inserted in Gazette 28 Jul 2000 p. 3994.]

32J. Occupier not to purchase prescribed produce or sell prescribed produce to associates unless authorised

- (1) Unless authorised to do so by a document to which sub-bylaw (2) applies, an occupier who, having been supplied with prescribed produce for the purpose of sale by the occupier —

- (a) purchases any of the prescribed produce on the occupier's own account, whether solely or jointly with another person; or
- (b) sells any of the prescribed produce to a person with whom or which the occupier is associated within the meaning of by-law 32K,

commits an offence.

Penalty: \$2 000.

- (2) This sub-bylaw applies to a document that is —

- (a) a written agreement, under which the prescribed produce is supplied to the occupier, that includes provisions that enable the supplier, either in the agreement or in a separate written notice, to elect to authorise, or not to authorise, the occupier for the purposes of sub-bylaw (1); or
- (b) a written notice, as provided for in the agreement referred to in paragraph (a), given by the supplier to the occupier.

- (3) If an occupier is authorised to purchase prescribed produce on the occupier's own account, as referred to in sub-bylaw (1)(a),

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32K

the occupier is to give to the supplier within 7 days after the purchase written notice of having made the purchase.

- (4) If an occupier is authorised to sell prescribed produce to a person referred to in sub-bylaw (1)(b), the occupier is to give to the supplier within 7 days after the sale —
- (a) written notice of the name of the person to whom or which the produce was sold; or
 - (b) if the person to which the produce was sold is a subsidiary of a holding company — written notice that states the name of the holding company and that the produce was sold to a subsidiary (which does not need to be named) of that holding company.
- (5) In sub-bylaw (4) —
- “holding company”** and **“subsidiary”** each has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth.

[By-law 32J inserted in Gazette 28 Jul 2000 p. 3995; amended in Gazette 20 Oct 2000 p. 5903; 21 Sep 2001 p. 5219.]

32K. Associated persons

- (1) For the purposes of by-law 32J, an occupier is associated with another person (the **“other person”**) if the occupier is —
- (a) the other person’s spouse, de facto partner, brother or sister;
 - (b) the other person’s —
 - (i) parent or remoter lineal ancestor; or
 - (ii) child or remoter issue;
 - (c) the other person’s business partner;
 - (d) a corporation of which the other person is an officer;
 - (e) if the other person is a corporation — an officer of that corporation;

- (f) an officer of a corporation of which the other person is also an officer;
 - (g) an employee or employer of the other person;
 - (h) an employee of an individual of whom the other person is also an employee;
 - (i) a corporation whose directors are accustomed or under an obligation, whether informal or formal, to act in accordance with the directions, instructions or wishes —
 - (i) of the other person; or
 - (ii) if the other person is a corporation — of the directors or managers of the corporation;
 - (j) a corporation in accordance with the directions, instructions or wishes of which, or of the directors or managers of which, the other person is accustomed or under an obligation, whether informal or formal, to act;
 - (k) a corporation that the other person controls;
 - (l) if the other person is a corporation — a person who controls that corporation; or
 - (m) a person who, within the meaning of this sub-bylaw, is associated with a person who is associated with the other person.
- (2) In sub-bylaw (1) —
“controls” has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth.

*[By-law 32K inserted in Gazette 28 Jul 2000 p. 3995-6;
amended in Gazette 20 Oct 2000 p. 5903; 21 Sep 2001 p. 5219;
21 Sep 2004 p. 4103.]*

32L. Review

- (1) The Authority is to carry out a review of the operation and effectiveness of this Division as soon as is practicable after 1 August 2002.

Perth Market By-laws 1990

Part 4 Control of trading

Division 2 Provisions applying to prescribed produce supplied otherwise than under exempt supply agreements

bl. 32L

- (2) The Authority is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to submit the report to the Minister.

[By-law 32L inserted in Gazette 28 Jul 2000 p. 3996.]

Part 5 — Control of vehicles

33. Interpretation

In this Part, unless the contrary intention appears —

“no parking area” means any area within the public market in which the parking of vehicles is prohibited in terms of a sign or inscription erected appurtenant to or painted adjacent to or upon the area;

“no standing area” means any area within the public market in which the standing of vehicles is prohibited in terms of a sign or inscription erected appurtenant to or painted adjacent to or upon the area;

“park” means to permit a vehicle whether attended or not, to remain stationary, except for the purpose of avoiding conflict with other traffic, of complying with the provisions of any law or immediately taking up or setting down persons or goods;

“stand” in relation to a vehicle, means to stop the vehicle and permit it to remain stationary, except for the purpose of avoiding conflict with other traffic or of complying with the provisions of any law.

34. Certificate of authorisation under section 13C(2)

The Certificate issued pursuant to section 13C(2) of the Act shall be in the form specified in Form 3 of Schedule 2.

35. Times for delivery and collection

- (1) The Authority may by notice erected in a conspicuous place in the public market, notify the public of the times during which and the conditions under which general produce may be delivered to and collected from the public market or any part thereof.

bl. 36

- (2) A person shall not drive a vehicle or cause a vehicle to be driven into the public market for the purpose of —
- (a) delivering general produce to; or
 - (b) collecting general produce from,
- the public market or any part thereof except during the periods permitted and subject to the conditions imposed by the Authority for that purpose.

Penalty: \$200.

- (3) Where an inspector is satisfied in the circumstances of a particular case that it is not practicable for the delivery or collection of general produce to be effected during the times specified by the Authority for that purpose, the inspector may permit the delivery or collection of general produce to be effected outside those times.

36. Vehicles entry and exit

- (1) The Authority may from time to time appoint places to be used by vehicles entering or departing from the public market, as the case requires, and shall cause signs to be erected or marks or inscriptions to be painted on the roadways in or to the public market indicating the places so appointed.
- (2) A person who causes or permits a vehicle —
- (a) to enter the public market except at a place appointed for use by vehicles entering the public market under sub-bylaw (1); or
 - (b) to depart from the public market except at a place appointed for use by vehicles departing from the public market under sub-bylaw (1),

commits an offence.

Penalty: \$200.

- (3) The Authority may from time to time erect signs or cause lines, notices or symbols to be painted on the roadways in or to the public market specifying the direction and path to be followed by vehicles in any area of the public market and any person who drives a vehicle in a manner contrary to the manner required by such signs, lines, notices or symbols commits an offence.
Penalty: \$200.

37. Speed limit

Any person who drives a vehicle within the public market or any part thereof at a speed in excess of the maximum speed limits indicated by a sign erected by the Authority commits an offence.

Penalty: \$100.

38. Parking

- (1) The Authority may from time to time constitute, determine and vary and for that purpose cause to be indicated by painted lines, notices and signs, or any one or more of them —
- (a) areas or bays in the public market in which the parking of vehicles is permitted and the manner, conditions, times and limitations upon the parking of vehicles therein;
 - (b) areas or bays in the public market in which the parking of vehicles of a particular class is permitted and the manner, conditions, times and limitations on the parking of vehicles therein;
 - (c) areas or bays in the public market in which the parking of vehicles used by a particular person or class of persons is permitted and the manner, conditions, times and limitations on the parking of vehicles therein; and
 - (d) areas in the public market in which the standing of vehicles is prohibited.

bl. 38

- (2) An inscription on a sign or notice has effect according to its tenor.
- (3) Any person who —
- (a) parks a vehicle at any place in the public market other than in an area or bay set aside for the parking of vehicles pursuant to this by-law;
 - (b) parks a vehicle in an area or bay set aside for the parking of vehicles, in a manner inconsistent with or contrary to the manner indicated by the painted lines, notices or signs relating to that area or bay or contrary to any condition or limitation so indicated;
 - (c) parks a vehicle in an area or bay set aside for the parking of vehicles of a different class to that vehicle;
 - (d) parks a vehicle in an area or bay set aside for the parking of vehicles used by a particular person or class of persons when not such a person or within such a class of persons; or
 - (e) stands a vehicle in a no standing area,

commits an offence.

Penalty: \$200.

- (4) The Authority may issue a sticker or an identification card or both to persons for whom an area has been set aside pursuant to sub-by-law (1)(b) or (c).
- (5) A person to whom a sticker or identification card has been so issued, commits an offence if he or she fails to display the sticker or identification card, as the case requires, on the vehicle in respect of which it is issued or fails to produce the sticker or identification card, as the case requires, upon demand made by an inspector.

Penalty: \$100.

39. Driver of vehicle to comply with directions of inspector

- (1) If directed by an inspector so to do, the driver of a vehicle in the public market shall position the vehicle in such position as is assigned by an inspector.
- (2) Any driver who takes up a position other than that assigned to him by an inspector, or after having taken up the position assigned to him by an inspector, refuses to remove the vehicle therefrom when requested so to do by an inspector, commits an offence.

Penalty: \$500.

40. Inspector may give directions

- (1) Notwithstanding the provisions of these by-laws, an inspector may —
 - (a) direct the driver or other person in control of a vehicle, to remove the vehicle from the place where it is then parked or standing to some other place in the public market, irrespective of whether the vehicle was then lawfully or unlawfully parked or standing;
 - (b) direct or permit a person wishing to park or stand a vehicle, to park or stand the vehicle in such place in the public market as shall be nominated by the inspector;
 - (c) direct the driver of a vehicle intending to enter or depart from the public market to do so contrary to the manner required by by-law 38.
- (2) A person who fails to comply with any direction given by an inspector pursuant to sub-by-law (1) commits an offence.

Penalty: \$500.

41. Removal of notice prohibited

A person other than the driver or other person in charge of a vehicle allegedly involved in the commission of an offence

bl. 42

under these by-laws, shall not remove any infringement notice left in or upon the vehicle by an inspector.

Penalty: \$400.

42. Identification plates for registered forklifts

The Authority may on the receipt of a fee of \$50 issue an identification plate in relation to a forklift registered by the Authority.

[By-law 42 inserted in Gazette 21 Sep 2004 p. 4103.]

42A. Licensing of forklift drivers

- (1) The Authority may issue a licence to a person to drive and operate a registered forklift in the public market if the Authority is of the opinion that the person is competent to drive and operate a forklift in the public market.
- (2) The Authority shall —
 - (a) maintain a record of licenses issued under sub-by-law (1); and
 - (b) issue licensed forklift drivers with a forklift driver's identification badge.
- (3) If the holder of a forklift drivers' licence —
 - (a) has been —
 - (i) convicted of an offence against by-law 42B; or
 - (ii) given 2 or more infringement notices under section 13B of the Act, in respect of offences against by-law 42B within a 12 month period, none of which have been withdrawn;
 - (b) has been given notice by the Authority that the Authority proposes to suspend the licence for the period of time, not exceeding 3 months, specified in the notice if the holder does not show cause to the Authority why the licence should not be suspended within the time

specified in the notice, being at least 14 days after the notice is given; and

- (c) does not show cause to the Authority why the licence should not be suspended within the time specified in the notice,

then the Authority may suspend the licence by giving to the holder of the licence a suspension of licence notice specifying the period of time for which the licence is suspended.

- (5) A forklift drivers' licence is of no effect while it is suspended.
- (6) The period of time for which a licence is suspended is not to exceed the time proposed by the notice given under sub-by-law (3)(b).
- (7) A person whose forklift drivers' licence is suspended is to return the forklift driver's identification badge issued under sub-by-law (2)(b) to the Authority within 7 days of being given the suspension of licence notice.

[By-law 42A inserted in Gazette 21 Sep 2004 p. 4104.]

42B. Control of forklifts

- (1) A person shall not operate a forklift or cause or permit a forklift to be operated in the public market, unless —
 - (a) the forklift is registered by the Authority and approved for operation within the public market;
 - (b) the person operating the forklift is competent to do so and is the holder of a forklift drivers' licence issued by the Authority under by-law 42A;
 - (c) the identification plate issued by the Authority under by-law 42 is at all times affixed to and displayed on the roof of the roll cage of the forklift in a conspicuous place; and
 - (d) the forklift is mechanically sound and operated in a safe and proper manner.

bl. 42B

- (2) A person shall not drive or operate a forklift in the public market unless the person —
- (a) is the holder of a current appropriate Class driver's licence as issued under the *Road Traffic Act 1974*;
 - (b) is the holder of a forklift drivers' licence issued by the Authority under by-law 42A;
 - (c) displays in a conspicuous place on his or her person or in the forklift cab, the forklift driver's identification badge issued under by-law 42A(2)(b);
 - (d) operates the forklift in a safe and proper manner;
 - (e) obeys all traffic signs erected by the Authority in the market; and
 - (f) has the lights of the forklift illuminated at all times.
- (3) A person who contravenes sub-by-law (1) or (2) commits an offence.

Penalty: \$200.

[By-law 42B inserted in Gazette 21 Sep 2004 p. 4105.]

Part 6 — Miscellaneous

43. Infringement notices

- (1) The offences described in Schedule 1 are prescribed for the purposes of sections 13A to 13C of the Act and the penalty prescribed under the heading “Modified penalty” opposite and corresponding to the offence so described is the penalty payable in respect of the offence under the infringement notice.
- (2) An infringement notice shall be in the form of Form 1 in Schedule 2.
- (3) A notice withdrawing an infringement notice shall be in the form of Form 2 in Schedule 2.
- (4) A certificate issued pursuant to section 13C(2) shall be in the form of Form 3 in Schedule 2.

[By-law 43 amended in Gazette 15 Jan 1999 p. 111.]

44. Powers of inspectors

- (1) An inspector may inspect any general produce or other goods or merchandise being removed from the public market in a vehicle or otherwise and for that purpose may compel the driver of a vehicle to permit the inspector to conduct a search of that vehicle.
- (2) A person who —
 - (a) obstructs or hinders an inspector exercising any power conferred on him by this by-law; or
 - (b) contravenes or fails to comply with any direction given by an inspector pursuant to this by-law, commits an offence.

Penalty: \$400.

bl. 45

45. Inspector may require name and address

- (1) An inspector may require of a person reasonably believed by the inspector to have committed an offence against these by-laws, the name and address of that person.
- (2) A person who refuses or fails to comply with a requirement of an inspector pursuant to sub-bylaw (1) commits an offence.
Penalty: \$400.

46. Destruction of produce unfit for sale

- (1) Where it appears to an inspector, or other authorised person that any general produce or other goods or merchandise brought into the public market or exposed for sale within the public market are unfit for sale, the inspector may direct the occupier of the premises whereon the general produce or goods or merchandise are offered for sale to cause the same to be destroyed.
- (2) A person who refuses or fails to comply with the direction of an inspector or other authorised person pursuant to sub-bylaw (1) commits an offence.
Penalty: \$400.

[47. Omitted under the Reprints Act 1984 s. 7(4)(f).]

Schedule 1

Prescribed offences for the purposes of section 13B

By-law	Brief description of offence	Modified penalty
		\$
9	Entering or remaining in the public market without permission	25
11	Littering	25
12	Conducting, organizing or taking part in an assembly or meeting in the public market without permission	50
13	Smoking in a non-smoking area	100
14	Behaving in a disorderly manner	100
15	Writing or distributing obscene material	20
16	Bill posting or writing on a building without permission	20
17	Bringing, keeping or consuming any alcoholic beverage or remaining in the public market when intoxicated	20
18	Obstructing roads or footways	100
19	Bringing an animal into the public market	20
20	Interfering with or damaging Authority's property	20
22	Littering roads adjacent to premises, failing to provide receptacles for rubbish or keep receptacles in good repair, placing liquid refuse in receptacle	25
24	Soliciting outside own premises or those of employer	50
25(1)	Selling of general produce by a non-occupier or agent	100
25(2)	Buying general produce when not on the premises of an occupier	20
Part 5	Offences in which the driving, standing or parking of a vehicle is an element	50
42B	Offences related to the driving or operating of forklifts	50

[Schedule 1 amended in Gazette 27 Nov 1992 p. 5737; 5 Mar 1993 p. 1431; 21 Sep 2004 p. 4105-6.]

Schedule 2

Schedule 2

Notices issued pursuant to section 13B

Form 1

Perth Market Act 1926

INFRINGEMENT NOTICE

No.

Date of service 20

1. It is alleged that at about a.m./p.m. on the day of 20, you contravened the by-law specified and briefly described in item 2.

.....
Authorised person

2. By-law No. Brief description Modified penalty
of offence

3. You may dispose of this matter either —
(a) by payment of the modified penalty within days of the date of this notice; or
(b) by having it dealt with by a court.

4. If the modified penalty is not paid within days, court proceedings may be taken against you.

5. Payment may be made by completing item 6 and either posting this form and a cheque, money order or postal note for the amount of the modified penalty specified in item 2, to the Clerk of Petty Sessions, Perth or by delivering this form and paying the amount to the Clerk of Petty Sessions, Perth between the hours of 10.00 a.m. and 3.30 p.m. on Mondays to Fridays.

6. I,
(Name)

of
(number and street)

.....
(town or suburb) (Postcode)

admit contravening the by-law indicated in this form.

.....
(Signature of offender)

Form 2

Perth Market Act 1926

WITHDRAWAL OF INFRINGEMENT NOTICE

No.

Date of service 20

To

(Name)

of

(Address)

Infringement Notice No. served on you on
the day of 20 for the
alleged contravention of by-law is hereby withdrawn and
no further action will be taken against you in respect of the alleged offence.

.....

Manager

Schedule 2

Form 3

Perth Market Act 1926

CERTIFICATE ISSUED PURSUANT TO SECTION 13C(2)

CERTIFICATE

This is to certify that

(Name)

is authorised to give infringement notices pursuant to section 13C of the *Perth Market Act 1926*.

The holder of this certificate shall produce this certificate whenever required to do so by a person to whom he has given, or is about to give, an infringement notice.

Schedule 3

Packaging and minimum sales

[By-laws 26 and 26A]

	Fruit	Vegetable	Amount
1.	apples bananas grapefruit lemons mandarins oranges pawpaws pears	carrots onions potatoes tomatoes	Not less than 10 kg
2.	grapes mangoes	beans capsicum parsnips peas sweet potatoes turnips	Not less than 5 kg
3.	avocado stone fruit tamarillo	mushrooms	Not less than 4 kg
4.	kiwifruit		Not less than 3 kg
5.	strawberries		Not less than 12 punnets
6.	passionfruit	corn	Not less than 20 of the produce
7.		cucumber zucchini	Not less than 10 of the produce
8.	chokos		Not less than 6 of the produce
9.		broccoli cabbages cauliflowers celery lettuce	Not less than 5 of the produce
10.	pineapples melons (except watermelon)	butternut pumpkin	Not less than 3 of the produce

Schedule 3

	Fruit	Vegetable	Amount
11.	watermelon	pumpkin (except butternut pumpkin)	Not less than one of the produce

[Schedule 3 inserted in Gazette 9 Dec 1997 p. 7169-70.]

Notes

- ¹ This is a compilation of the *Perth Market By-laws 1990* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Perth Market By-laws 1990</i>	28 Dec 1990 p. 6415-32	1 Jan 1991 (see bl. 2)
<i>Perth Market Amendment By-laws 1991</i>	12 Jul 1991 p. 3411	12 Jul 1991
<i>Perth Market Amendment By-laws 1992</i>	27 Nov 1992 p. 5736-7	27 Nov 1992
<i>Perth Market Amendment By-laws 1993</i>	5 Mar 1993 p. 1431	5 Mar 1993
<i>Perth Market Amendment By-laws 1997</i>	9 Dec 1997 p. 7168-70	9 Dec 1997
<i>Perth Market Amendment By-laws 1999</i>	15 Jan 1999 p. 109-12	15 Jan 1999
<i>Perth Market Amendment By-laws 2000</i>	28 Jul 2000 p. 3987-96	1 Aug 2000 (see bl. 2)
<i>Perth Market Amendment By-laws (No. 2) 2000</i>	20 Oct 2000 p. 5900-3	20 Oct 2000
Reprint of the Perth Market By-laws 1990 as at 10 Aug 2001 (includes amendments listed above)		
<i>Perth Market Amendment By-laws 2001</i>	21 Sep 2001 p. 5219	21 Sep 2001
<i>Perth Market Amendment By-laws 2004</i>	21 Sep 2004 p. 4103-6	21 Sep 2004