



Western Australia

## **Perth Market (Disposal) Act 2015**

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No. 40 of 2015

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## Perth Market (Disposal) Act 2015

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## **Perth Market (Disposal) Act 2015**

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**No. 40 of 2015**

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**An Act to provide for the disposal of the whole or part of any business carried on by, or all or any of the assets or liabilities owned by or managed on behalf of the State by, the Perth Market Authority, and for related purposes.**

*[Assented to 8 December 2015]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary matters**

### **1. Short title**

This is the *Perth Market (Disposal) Act 2015*.

### **2. Commencement**

- (1) This Act (other than Part 6 Division 2 and Part 7) comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Part 6 Division 2 and Part 7 come into operation on the day on which the *Perth Market Act 1926* is repealed under section 42.

### **3. Terms used**

In this Act, unless the contrary intention appears —

**asset** means property of any kind whether tangible, intangible, real or personal and includes (without limitation) —

- (a) any chose in action, goodwill, right, interest or claim of any kind, whether arising from, accruing under, created or evidenced by or the subject of an instrument or otherwise and whether liquidated or unliquidated or actual, contingent or prospective; and
- (b) a contractual right that is to be regarded as arising because of section 24(2);

**Authority** means the Perth Market Authority under the *Perth Market Act 1926*;

**central trading lot** means the land that, immediately before the commencement of this section, was the part of Lot 1002 on Deposited Plan 16227, Certificate of Title Volume 2129 Folio 88 that is shown hatched on the plan in Schedule 1 Division 1;

**company** means a company registered under the *Corporations Act 2001* (Commonwealth);



**corporate vehicle** means —

- (a) a company created in accordance with section 10(4) each security in which is held by a person specified in section 10(6); or
- (b) a subsidiary under the *Corporations Act 2001* (Commonwealth) of a company referred to in paragraph (a);

**dispose of**, in relation to a market asset, includes —

- (a) to sell or lease the market asset; and
- (b) to create and assign an interest in the market asset;

**liability** —

- (a) means any liability, duty or obligation —
  - (i) whether liquidated or unliquidated or actual, contingent or prospective; and
  - (ii) whether owed alone or jointly or jointly and severally with any other person;

and

- (b) includes a contractual liability that is to be regarded as arising because of section 24(2);

**market asset** means —

- (a) the whole or any part of a business carried on by, or any asset or liability owned by or managed on behalf of the State by, the Authority; or
- (b) the whole or any part of a business carried on by, or any asset or liability owned by or managed on behalf of the Authority, a corporate vehicle or the State by, a corporate vehicle; or
- (c) the securities in a corporate vehicle;

**produce** means any of the following —

- (a) fruit and vegetables;
- (b) cut flowers;

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- (c) fish, crustaceans and marine animals (including if frozen);

**public market** means a place at which persons meet for the purposes of selling or purchasing produce by wholesale, but does not include —

- (a) a place at which the sale of produce occurs if the place is the premises of the seller; or
- (b) a place at which the purchase of produce occurs if the place is the premises of the purchaser;

**purposes**, of a section 9 disposal, has the meaning given in section 4;

**right** means any right, power, privilege or immunity whether actual, contingent or prospective but, in relation to a transfer order, does not include any privilege or immunity enjoyed as an agent of the Crown except in so far as it relates to anything done or omitted to be done before the transfer time;

**section 9 disposal** means a disposal for which an order is in force under section 9;

**transferee**, in relation to a transfer order, has the meaning given in section 21(2)(b);

**transferor**, in relation to a transfer order, has the meaning given in section 21(2)(b);

**transfer order** means a transfer order made under section 21 as amended under that section or corrected under section 27;

**transfer time**, in relation to a transfer order, means the time specified under section 21(2)(a) in the transfer order.

**4. Purposes of section 9 disposal**

The purposes of a section 9 disposal include the following —

- (a) the purpose of effecting or facilitating the section 9 disposal;
- (b) any purpose ancillary or incidental to, or consequential on, the section 9 disposal.

**5. Things on land**

A reference in this Act to a thing that is on land is to be taken to be a reference to a thing that is on, in, over or under the land.

**6. Assignable nature of things on land**

For the purposes of this Act, a thing that is on land and is capable of being disposed of —

- (a) is not part of the land, regardless of whether it is in the nature of a fixture; and
- (b) is capable of being assigned separately from the land; and
- (c) is capable of being removed from the land by, or with the authority of, the owner of the land.

**7. Act binds Crown**

This Act binds the State and, so far as the legislative power of the State permits, the Crown in all its other capacities.

## Part 2 — Enabling disposal

### 8. Disposal of market assets authorised

- (1) A market asset owned or managed by the Authority may be disposed of, whether by the Authority or the State, if the disposal is authorised by an order made under section 9.
- (2) A market asset owned or managed by a corporate vehicle may be disposed of, whether by the corporate vehicle or the State, if the disposal is authorised by an order made under section 9.

### 9. Minister may order disposal of market assets

- (1) The Minister may, by order published in the *Gazette* —
  - (a) direct the disposal of all or specified market assets; or
  - (b) vary or revoke an order made under paragraph (a), or under this paragraph, at any time before effect is given to the order.
- (2) An order made under subsection (1) may be in general terms and need not include any details about how the disposal is to be effected.
- (3) The Minister cannot make an order under subsection (1) without the Treasurer's approval.
- (4) An order made under subsection (1) takes effect —
  - (a) on the day after the day on which the order is published in the *Gazette*; or
  - (b) if a later day is specified in the order — on that day.

### 10. Effecting disposal

- (1) Subject to section 11, there are no limitations on the nature of any transaction or arrangement that can be entered into for the purposes of a section 9 disposal.
- (2) An express provision of this Act authorising the establishment of a particular kind of legal entity for the purposes of a section 9

disposal does not limit the kinds of legal entity that can be used for those purposes.

- (3) One or more corporate vehicles or one or more trusts can be used for the purposes of a section 9 disposal.
- (4) If a company is to be used for the purposes of a section 9 disposal by the State, the Under Treasurer must ensure that the necessary steps are taken on behalf of the State to create the company.
- (5) Any of the persons specified in subsection (6) can —
  - (a) receive on behalf of the State an allotment and issue of, or otherwise acquire on behalf of the State, securities in the company; and
  - (b) hold, and dispose of, on behalf of the State any securities so acquired by the person in the company.
- (6) For subsection (5), the following persons are specified —
  - (a) the Minister;
  - (b) the Treasurer;
  - (c) the Authority.
- (7) The Minister may enter into on behalf of the State any agreement for the purposes of a section 9 disposal.

**11. Disposal of land**

The following land can be disposed of under this Act —

- (a) Crown land;
- (b) freehold land owned by the Authority, a corporate vehicle or the State.

**12. Land subject to unregistered leases with terms exceeding 5 years**

Despite the *Transfer of Land Act 1893* section 68(1A), land disposed of under this Act is subject to any prior unregistered

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lease or agreement for lease or for letting for a term exceeding 5 years to a tenant in actual possession even though the lease or agreement may not be specially notified as an encumbrance on the certificate of title or registered instrument for the land.

**13. Approval of Planning Commission not required for leases with terms exceeding 20 years**

- (1) This section applies in relation to land that, immediately before its disposal under this Act, was subject to a lease referred to in the *Planning and Development Act 2005* section 136(1)(a) or (b).
- (2) The *Planning and Development Act 2005* section 136 does not apply, and is to be taken to have not applied, at any time while the land is or was subject to the lease or any renewal or extension of the lease.

**14. Development and building work**

- (1) In this section —  
***approval*** includes —
  - (a) a permit, consent, notice, permission, or other authorisation;
  - (b) an approval certificate or other certificate;
  - (c) an exemption or waiver;***building work*** means —
  - (a) building work as defined in the *Building Act 2011* section 3; or
  - (b) demolition work as defined in the *Building Act 2011* section 3; or
  - (c) plumbing work as defined in the *Plumbers Licensing Act 1995* section 59I; or
  - (d) any other work of a similar or related nature;

**development** has the meaning given in the *Planning and Development Act 2005* and includes any other development or use of a similar or related nature;

**issue** includes give or grant;

**Perth market site** means the land consisting of all of the following —

- (a) the land described as Lot 1002 on Deposited Plan 16227, Certificate of Title Volume 2129 Folio 88;
- (b) the land described as Lot 1004 on Deposited Plan 16227, Certificate of Title Volume 1832 Folio 28;

**premises** means —

- (a) a building or other structure, situated on the Perth market site, or part of the building or other structure; or
- (b) the Perth market site or part of the site.

(2) Subsection (3) applies if —

- (a) at any time before this subsection comes into operation, development or building work was carried out on the Perth market site; and
- (b) under the law in force at the relevant time, an approval was required to be issued for the carrying out of the development or building work; and
- (c) the approval was not issued.

(3) The approval is to be taken to have been issued.

(4) Subsection (5) applies if —

- (a) at any time before this section comes into operation, the premises were used or occupied; and
- (b) under the law in force at the relevant time, an approval was required to be issued for the use or occupation of the premises; and
- (c) the approval was not issued.

(5) The approval is to be taken to have been issued.

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- (6) If the use or occupation of the premises continues after subsection (5) comes into operation, the continued use or occupation of the premises is to be taken to be with the approval.

**15. Use as public market**

- (1) In this section —  
*central trading area* means the part of the central trading lot that, immediately before the commencement of this section, was occupied by the building being used for the purposes of the sale or display of produce and is shown (for information only) hatched on the plan in Schedule 1 Division 2.
- (2) The central trading lot can only be disposed of under this Act on condition that, for 20 years after the disposal, a part of the central trading lot is used as a public market in accordance with subsections (3) to (5).
- (3) For subsection (2), the part of the central trading lot that must be used as a public market can be —
- (a) the central trading area; or
  - (b) another part of the central trading lot in respect of which an approval is in force under subsection (4).
- (4) The Minister may, by order published in the *Gazette* —
- (a) approve a part of the central trading lot for use as a public market; or
  - (b) vary or revoke an approval given under paragraph (a).
- (5) An order made under subsection (4) takes effect —
- (a) on the day after the day on which the order is published in the *Gazette*; or
  - (b) if a later day is specified in the order — on that day.



**16. Development condition relating to warehousing**

- (1) In this section —
- CTL development application* means a development application, as defined in the *Planning and Development Act 2005* section 4(1), for the development of the central trading lot that is made at any time within 20 years after the disposal under this Act of the central trading lot.
- (2) The conditions on which any CTL development application is approved must include both of these conditions —
- (a) that one or more parts of the central trading lot (the area or total area of which part or parts must be at least 46 500 m<sup>2</sup>) are used or are available to be used for the purposes of warehousing to support the public market referred to in section 15(2); and
  - (b) that one or more parts of the central trading lot (the area or total area of which part or parts must be at least 24 000 m<sup>2</sup>) are set aside for use at some time in the future for the purposes of warehousing to support the public market referred to in section 15(2).
- (3) Subsection (2) applies despite the *Planning and Development Act 2005* or any planning scheme or interim development order under that Act.
- (4) Despite the *Planning and Development Act 2005*, any planning scheme as defined in section 236(1) of that Act or any other written law, the imposition of a condition under subsection (2) is not reviewable by the State Administrative Tribunal.

**17. Functions and powers of Minister**

The Minister has all of the functions and powers that are necessary or convenient for the purposes of this Act, including the power to acquire land.

**18.        Functions and powers of Authority**

The Authority has all of the functions and powers that are necessary or convenient for the purposes of the disposal of a market asset under this Act.

**19.        Functions and powers of corporate vehicles**

A corporate vehicle has all of the functions and powers that are necessary or convenient for the purposes of the disposal of a market asset under this Act, including —

- (a) the power to acquire land; and
- (b) if the corporate vehicle is a company referred to in paragraph (a) of the definition of *corporate vehicle* in section 3 — the power to create subsidiaries of the company.

**20.        Directions by Minister**

- (1) The Minister may, for the purposes of a section 9 disposal, give a written direction to the Authority or a corporate vehicle.
- (2) The Authority or a corporate vehicle must comply with a direction given to it under subsection (1).
- (3) The Authority or a corporate vehicle, or a member, director or officer of the Authority or a corporate vehicle, is not liable for anything done or omitted to be done in good faith in compliance with, or purported compliance with, a direction given under subsection (1).
- (4) This section is declared to be a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* (Commonwealth) section 5G in relation to the Corporations legislation generally.

## Part 3 — Implementing disposal

### Division 1 — Transfer orders

#### 21. Minister may make transfer orders

(1) In this section —

**private entity** means a person other than any of the following —

- (a) the Authority;
- (b) a statutory corporation;
- (c) a corporate vehicle;
- (d) the State;

**statutory corporation** means —

- (a) a Minister or chief executive officer who is constituted, or continued in existence, as a body corporate under an Act; or
- (b) any other body corporate that is constituted, or continued in existence, under an Act.

(2) For the purposes of a section 9 disposal, the Minister may, by order published in the *Gazette* (a **transfer order**), specify all or any of the following —

- (a) a time (which must be after the day on which the order is published in the *Gazette*) that is the transfer time under the transfer order;
- (b) any asset or liability that, by operation of section 22, is to be transferred from the Authority, a corporate vehicle or the State as specified in the order (the **transferor**) to a corporate vehicle or a private entity as specified in the order (the **transferee**);
- (c) proceedings in which, by operation of section 22, the transferee is to be substituted for the transferor as a party;

- (d) any agreement or instrument relating to anything transferred that, by operation of section 22, is to have effect as if, unless otherwise expressly specified in the order, references to the transferee were substituted for references to the transferor in the agreement or instrument.
- (3) If the transfer time is specified by reference to when a thing is done, the Minister must ensure that notice of the time when the thing is done is published in the *Gazette*.
- (4) A transfer order may specify persons or things by reference to schedules that —
  - (a) need not be published in the *Gazette*; but
  - (b) must be available for public inspection on business days at the place and between the times specified in the transfer order for 6 months after the day on which the transfer order is published in the *Gazette*.
- (5) For subsection (4)(b), a business day is a day other than a Saturday, Sunday or public holiday.
- (6) A person or thing specified in a schedule for a transfer order is to be taken to be specified in the transfer order.
- (7) A person or thing may be specified in a transfer order by describing the person or thing as a member of a class.
- (8) Before a transfer order is made specifying anything by reference to a schedule, the Minister must consult each relevant official to whom a copy of the schedule must be given under section 26(2) about the form and content of the schedule for the purpose of facilitating the recording and registration of instruments or documents as required by section 26(3)(b).
- (9) The Minister may, by order published in the *Gazette*, amend a transfer order or a schedule for a transfer order, but only —
  - (a) before the transfer time; and
  - (b) with the consent of the transferee.

**22. Consequences of transfer orders**

- (1) In this section —  
*specified* means specified in the transfer order.
- (2) A transfer order has effect at the transfer time as follows —
- (a) a specified asset is, by operation of this section and without the need for any conveyance, transfer, assignment or assurance or any prior notice or further act, transferred to the transferee and becomes an asset of the transferee;
  - (b) a specified liability is, by operation of this section and without the need for any prior notice or further act, transferred to and becomes a liability of the transferee;
  - (c) the transferee is, by operation of this section, substituted for the transferor as a party to any specified proceedings;
  - (d) a specified agreement or instrument has effect, by operation of this section, as if (unless otherwise specified) a reference to the transferee were substituted for a reference to the transferor in the agreement or instrument;
  - (e) any proceedings or remedy that might have been commenced by, or available against or to, the transferor in relation to an asset or liability transferred by paragraph (a) or (b) may be commenced by, or are available against or to, the transferee;
  - (f) anything relating to an asset or liability transferred by paragraph (a) or (b) that was done or omitted to be done by, to or in respect of the transferor before the transfer and is of any effect is to be taken to have been done or omitted by, to or in respect of the transferee.

**23. Completion of transactions for this Division**

If a transfer order cannot to any extent have the effect sought to be achieved by this Division (whether because a matter is

governed otherwise than by a law of this State or for any other reason), the Minister and the transferor must each take all practicable steps to achieve that effect as soon as possible after the transfer time.

**24.      Effect of arrangements internal to transferors**

- (1) An instrument that provides for arrangements between different parts of the transferor's business or undertaking may be specified in a transfer order as if it created contractual rights and liabilities.
- (2) An instrument specified as described in subsection (1) is to be regarded as if its provisions were contractual provisions between different legal entities.
- (3) A contractual right or liability that is to be regarded as arising because of subsection (2) is transferable under this Division.

**25.      Delivery and access to records**

- (1) In this section —  
*record* includes a register, minute, receipt, book of account or other document (however compiled, recorded or stored);  
*relevant record*, in relation to a transfer order, means a record relating to any asset, liability, agreement, instrument or proceedings specified under section 21(2) in the transfer order.
- (2) The Minister may give the transferor under a transfer order a direction (whether in the transfer order or otherwise in writing) as to which relevant records, or classes of relevant records, in the possession or control of the transferor must be delivered to or shared with, or be able to be accessed by, the transferee under the transfer order.
- (3) The transferor must deliver to or share with the transferee, or enable the transferee to have access to, relevant records in accordance with the direction.

- (4) The transferor and transferee must make arrangements for the delivery or sharing of, or access to, relevant records in accordance with the direction.
- (5) This section is declared to be a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* (Commonwealth) section 5G in relation to the Corporations legislation generally.

**26. Registration of documents**

- (1) In this section —  
*relevant official* means any of the following —
  - (a) the Registrar of Titles under the *Transfer of Land Act 1893*;
  - (b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*;
  - (c) the Minister administering the *Land Administration Act 1997*;
  - (d) any other person authorised by a written law to record and give effect to the registration of instruments or documents relating to transactions affecting any estate or interest in land or any other property.
- (2) The Minister must ensure that a copy of each of the following instruments is given to each relevant official —
  - (a) a transfer order and any schedule for it;
  - (b) any order made under section 21(9) amending a transfer order or any schedule for it;
  - (c) any order made under section 27(1) correcting a transfer order or any schedule for it;
  - (d) any notice published under section 21(3) in respect of the transfer time in relation to a transfer order.

- (3) A relevant official must —
- (a) take notice of this Division, a transfer order and any other instrument relating to a transfer order that is referred to in subsection (2); and
  - (b) record and register in the appropriate manner the instruments or documents necessary to show the effect of this Division and a transfer order.

**27. Correction of errors in transfer orders**

- (1) The Minister may, by order published in the *Gazette*, make any provision that is necessary to correct any error in a transfer order or a schedule for a transfer order.
- (2) An order made under subsection (1) may be expressed to take effect on and after the transfer time.
- (3) To the extent that a provision of an order made under subsection (1) takes effect before the order is published in the *Gazette*, section 22 does not, as a result of that provision, operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State, the transferor or transferee, or a Minister, officer or agency of the State) the rights of that person existing before publication; or
  - (b) to impose liabilities on any person (other than the State, the transferor or transferee, or a Minister, officer or agency of the State) in respect of anything done or omitted to be done before publication.

**Division 2 — Disclosure of confidential information**

**28. Authorised disclosure of confidential information**

- (1) In this section —
- confidential information*** means confidential information, or information that is not publicly known, concerning the affairs of the Authority or a corporate vehicle.



- (2) A disclosure of confidential information that is authorised under this section is not to be regarded as —
- (a) a breach of contract or confidence or any other civil wrong; or
  - (b) a breach of duty under any of the following —
    - (i) the *Perth Market Act 1926*;
    - (ii) the *Western Australian Land Authority Act 1992* Schedule 1A;
    - (iii) the *Statutory Corporations (Liability of Directors) Act 1996* section 5;
- or
- (c) a breach of, or an offence under, a provision of a written law that prohibits or restricts the disclosure of information.
- (3) For subsection (2), a disclosure of confidential information is authorised if it is made for the purposes of a section 9 disposal by —
- (a) the Government, the Authority or a corporate vehicle; or
  - (b) a person acting with the authority of a body referred to in paragraph (a).
- (4) For subsection (3), a disclosure of confidential information made for the purposes of a section 9 disposal includes a disclosure of confidential information whenever made if the disclosure is or was made for the purposes of a potential section 9 disposal.

**29. Offence of disclosing information**

- (1) Subsection (2) applies to a person (a *bound recipient*) who —
- (a) obtains information connected with a section 9 disposal, whether through a disclosure authorised by section 28 or otherwise; and

- (b) has agreed or is otherwise under a duty not to disclose the information to others.
- (2) A bound recipient commits an offence if the bound recipient breaches the agreement or duty referred to in subsection (1)(b).  
Penalty for this subsection: a fine of \$200 000.
- (3) A person who obtains information connected with a section 9 disposal from or through a bound recipient commits an offence if, without lawful excuse, the person discloses the information in a way that would have resulted in a breach of the agreement or duty referred to in subsection (1)(b) if the disclosure had been made by the bound recipient.  
Penalty for this subsection: a fine of \$200 000.
- (4) For subsections (1)(a) and (3), information connected with a section 9 disposal includes information whenever obtained if the information is or was connected with a potential section 9 disposal.

### **Division 3 — Other matters**

#### **30. Application of proceeds of disposal**

The proceeds of a section 9 disposal must be applied by paying them to the Treasurer or as the Treasurer directs otherwise.

#### **31. Provision by State of indemnities and guarantees**

- (1) The Treasurer may, in the name and on behalf of the State, give an indemnity or guarantee in respect of a matter related to —
  - (a) a section 9 disposal; or
  - (b) the assignment (whether under a transfer order or otherwise) of anything in connection with a section 9 disposal.
- (2) The Treasurer may, in the name and on behalf of the State, give to any person who is or has been a member, director or officer of the Authority or a corporate vehicle an indemnity against any

liability determined by the Treasurer (including any civil liability under the *Corporations Act 2001* (Commonwealth)), whether or not the liability relates to a matter referred to in subsection (1).

- (3) Any money payable under an indemnity or guarantee given under this section must be paid by the Treasurer.
- (4) Payments made under subsection (3) are charged to the Consolidated Account, which this subsection appropriates accordingly.

**32. Takeover by State of certain obligations**

- (1) This section applies in relation to an obligation (whether contingent or otherwise) of the Authority or a corporate vehicle.
- (2) The Treasurer may, in the name and on behalf of the State, agree to take over an obligation in connection with a section 9 disposal.
- (3) If the performance of the obligation was guaranteed by the State, the agreement may also provide for —
  - (a) the release by the State of any security held by the State in connection with the guarantee; or
  - (b) the release of a person from an undertaking that the person gave to the State in relation to any security described in paragraph (a).
- (4) The Treasurer may authorise the payment of money to discharge an obligation that the State has taken over under subsection (2), whether by terminating the obligation or otherwise.
- (5) Payments authorised under subsection (4) are charged to the Consolidated Account, which this section appropriates accordingly.

## **Part 4 — Provisions relating to corporate vehicles**

### **33. Application of this Part**

This Part applies if, for the purposes of a section 9 disposal, a market asset is assigned (whether under a transfer order or otherwise) from the Authority or a corporate vehicle (the *assignor*) to a corporate vehicle (the *assignee*).

### **34. Assignee's powers and duties**

The assignee has the same powers, duties, rights and obligations in respect of the market asset as the assignor would have had if the assignment had not occurred.

### **35. Application of written laws to assignee**

(1) In this section —

*applicable written law* —

- (a) means a written law (other than this Act) that applies to or in relation to, or refers to, the assignor; and
  - (b) includes a written law that, by operation of this section, applies to or in relation to, or refers to, the assignor.
- (2) An applicable written law is to be taken (with the changes that are prescribed by the regulations or are otherwise necessary or convenient for the purpose of this Part) to apply to or in relation to, or to refer to, the assignee.
- (3) Without limiting subsection (2), the regulations may provide that a reference in an applicable written law to the assignor that relates to the market asset before the assignment occurred is to be taken to include a reference to the assignee.

## **Part 5 — Miscellaneous matters**

### **36. Exemption from State tax**

(1) In this section —

*State tax* includes —

- (a) duty chargeable under the *Duties Act 2008*; and
- (b) any other tax, duty, fee, levy or charge under a law of the State.

(2) State tax is not payable in relation to —

- (a) anything that occurs by operation of either or both of Parts 2 and 3; or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under, to give effect to, or for a purpose connected with or arising out of giving effect to, either or both of Parts 2 and 3.

(3) The Minister may, at the request of the transferor or transferee under a transfer order, certify in writing that —

- (a) a specified thing occurred by operation of either or both of Parts 2 and 3; or
- (b) a specified thing was done under, to give effect to, or for a purpose connected with or arising out of giving effect to, either or both of Parts 2 and 3.

(4) For all purposes and in all proceedings, a certificate under subsection (3) is sufficient evidence of the matters it certifies unless the contrary is shown.

(5) The exemption under subsection (2) does not apply in relation to a thing that occurs or is done if the Minister directs (whether in a transfer order or otherwise in writing) that it does not apply in relation to the thing.

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**37. Restriction on other public markets**

- (1) In this section —  
*specified* means specified or described in the regulations.
- (2) Despite anything in the *Local Government Act 1995*, a local government cannot, during the specified period (which cannot exceed 10 years) after the disposal under this Act of the central trading lot, provide or establish in a specified area a public market in respect of specified produce.

**38. Effect of this Act on existing rights and obligations**

The operation of this Act, including anything done or omitted to be done under or for the purposes of this Act, is not to be regarded as —

- (a) a breach of confidence or any other civil wrong; or
- (b) a breach of a contract or instrument, including (without limitation) a provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) requiring any act to be done under a contract or instrument; or
- (d) giving rise to a right or remedy of a party to a contract or instrument or causing or permitting the termination of, or exercise of rights under, a contract or instrument; or
- (e) an event of default under a contract or instrument; or
- (f) causing a contract or instrument to be void or otherwise unenforceable; or
- (g) subject to section 32(3) and (4), releasing, or allowing the release of, a surety or other obligee from the whole or part of an obligation.

**39. No compensation payable**

- (1) No compensation is payable by or on behalf of the State —
  - (a) because of the enactment or operation of this Act or for the consequences of its enactment or operation; or
  - (b) because of any statement or conduct relating to the enactment of this Act; or
  - (c) in connection with the assignment under this Act of a market asset.
- (2) Subsection (1) does not apply in relation to —
  - (a) any consideration payable under an agreement entered into for the purposes of a section 9 disposal; or
  - (b) any compensation payable in connection with the performance of an obligation arising under an agreement entered into for the purposes of a section 9 disposal.

**40. Regulations for the purposes of, or consequential on, section 9 disposals**

- (1) In this section —

*publication day*, for regulations referred to in subsection (2), means the day on which those regulations are published in the *Gazette*.
- (2) Regulations made under section 41 may provide for —
  - (a) matters for which it is necessary or convenient to make provision for the purposes of a section 9 disposal; or
  - (b) matters that it is necessary or convenient to deal with as a consequence of anything contained in, or anything done under, Part 2, 3 or 4.
- (3) Regulations referred to in subsection (2) may be expressed to take effect before publication day for those regulations but after the day on which the order made under section 9(1)(a) for the section 9 disposal is published in the *Gazette*.

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- (4) To the extent that regulations referred to in subsection (2) take effect before publication day for those regulations, the regulations do not operate —
- (a) to affect in a manner prejudicial to any person (other than the State, the assignor or assignee under an assignment for the purposes of the section 9 disposal, or a Minister, officer or agency of the State) the rights of that person existing before publication day for those regulations; or
  - (b) to impose liabilities on any person (other than the State, the assignor or assignee under an assignment for the purposes of the section 9 disposal, or a Minister, officer or agency of the State) in respect of anything done or omitted to be done before publication day for those regulations.

**41. Regulations**

The Governor may make regulations prescribing matters —

- (a) required or permitted to be prescribed by this Act; or
- (b) necessary or convenient to be prescribed for giving effect to this Act.



## **Part 6 — Repeal of *Perth Market Act 1926* and related transitional matters**

### **Division 1 — Repeal of *Perth Market Act 1926***

#### **42. Repeal of Act**

- (1) The *Perth Market Act 1926* is repealed on a day fixed by proclamation.
- (2) A proclamation cannot be made under subsection (1) unless the Minister is satisfied that there is no reason for the *Perth Market Act 1926* to remain in operation.

#### **43. Arrangements to be made for Authority's staff before repeal**

- (1) In this section —  
*staff member* means a person appointed by the Authority under the *Perth Market Act 1926* section 10(1)(a) or otherwise employed by the Authority.
- (2) Before the *Perth Market Act 1926* is repealed under section 42, the Minister —
  - (a) must, after consulting the Public Sector Commissioner —
    - (i) nominate the person or body in the Public Sector who will be the employing authority under the *Public Sector Management Act 1994* for staff members after the repeal; and
    - (ii) ensure that employment by or under that employing authority is arranged for each staff member who has not made other arrangements;
  - and
  - (b) must ensure that the *Public Sector Management Act 1994* Part 6 applies in relation to any staff member whose employment is arranged under paragraph (a).

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**Part 6** Repeal of Perth Market Act 1926 and related transitional matters

**Division 2** Transitional arrangements after repeal

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- (3) Except as agreed by a staff member, neither a change of employment arranged under paragraph (a) nor the repeal —
- (a) affects the staff member's remuneration or other terms and conditions of employment; or
  - (b) prejudices the staff member's existing or accruing rights; or
  - (c) affects any rights under a superannuation scheme; or
  - (d) interrupts the staff member's continuity of service.

**44. Members go out of office**

When the *Perth Market Act 1926* is repealed under section 42, the members of the Authority go out of office.

**Division 2 — Transitional arrangements after repeal**

**45. Term used: Authority**

In this Division —

*Authority* means the Perth Market Authority continued in existence under section 46(1).

**46. Authority continued in existence for transitional purposes**

- (1) Despite the repeal of the *Perth Market Act 1926* under section 42, the Authority under that Act continues in existence for the purposes of sections 23, 25, 47 and 49.
- (2) The Authority is to be constituted by, and must perform its functions through, one or more persons appointed by the Minister.
- (3) A person appointed under subsection (2) holds office at the pleasure of the Minister and on the terms and conditions (including as to remuneration) the Minister determines.
- (4) The Authority has all of the functions and powers necessary or convenient for the purposes referred to in subsection (1).

**47. Disposal of residual assets and liabilities**

- (1) Any part of a business carried on by, or any asset or liability owned by, the Authority that, immediately before the repeal of the *Perth Market Act 1926* under section 42, had not been disposed of otherwise under this Act may be assigned from the Authority to the State or another person.
- (2) The Under Treasurer must ensure that the necessary steps are taken to effect any assignment of a part of a business, or an asset or liability, under subsection (1).

**48. Application of *Constitution Acts Amendment Act 1899***

The *Constitution Acts Amendment Act 1899* applies, until the Authority is abolished under section 51, as if the following item were inserted in Schedule V Part 3 —

Perth Market Authority continued in existence under the *Perth Market (Disposal) Act 2015* section 46(1)

**49. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

The *Financial Management Act 2006* and the *Auditor General Act 2006* apply, until the Authority is abolished under section 51, as if the following item were inserted in the *Financial Management Act 2006* Schedule 1 —

Perth Market Authority continued in existence under the *Perth Market (Disposal) Act 2015* section 46(1)

**50. Application of *Statutory Corporations (Liability of Directors) Act 1996***

The *Statutory Corporations (Liability of Directors) Act 1996* Part 3 applies, until the Authority is abolished under section 51,

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**Division 2** Transitional arrangements after repeal

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as if the following item were inserted in the Table in Schedule 1 —

Perth Market Authority	a member of the Authority appointed under the <i>Perth Market (Disposal) Act 2015</i> section 46(2)	<i>Perth Market (Disposal) Act 2015</i>
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**51. Abolition of Authority**

- (1) The Authority is abolished, and its members go out of office, at the end of the day fixed by the Minister by notice published in the *Gazette*.
- (2) A notice cannot be published under subsection (1) unless the Minister is satisfied that there is no reason for the Authority to continue in existence.

**52. Transitional regulations**

- (1) In this section —  
**publication day**, for regulations referred to in subsection (2), means the day on which those regulations are published in the *Gazette*;  
**specified** means specified or described in the regulations;  
**transitional matter** —
  - (a) means a matter of a transitional nature that arises as a result of —
    - (i) the enactment of this Part; or
    - (ii) the repeal of the *Perth Market Act 1926* under section 42;
  - and
  - (b) includes a saving or application matter.

- (2) If there is not sufficient provision in this Part for dealing with a transitional matter, regulations made under section 41 may prescribe matters that are required or necessary or convenient to be prescribed for dealing with the transitional matter.
- (3) Regulations referred to in subsection (2) may provide that specified provisions of a written law —
  - (a) do not apply to or in relation to any matter; or
  - (b) apply with specified modifications to or in relation to any matter.
- (4) If regulations referred to in subsection (2) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than publication day for those regulations but not earlier than the day on which this section comes into operation, those regulations have effect according to their terms.
- (5) If regulations referred to in subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State, the Authority or a Minister, officer or agency of the State) the rights of that person existing before publication day for those regulations; or
  - (b) to impose liabilities on any person (other than the State, the Authority or a Minister, officer or agency of the State) in respect of anything done or omitted to be done before publication day for those regulations.

**53. *Interpretation Act 1984 not affected***

Except to the extent this Part or regulations made under section 52(2) expressly provide differently, the *Interpretation Act 1984* applies in relation to the repeal of the *Perth Market Act 1926* under section 42.

## Part 7 — Other Acts amended

**54. *Constitution Acts Amendment Act 1899* amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to the Perth Market Authority.

**55. *Financial Management Act 2006* amended**

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete “Perth Market Authority”.

**56. *Statutory Corporations (Liability of Directors) Act 1996* amended**

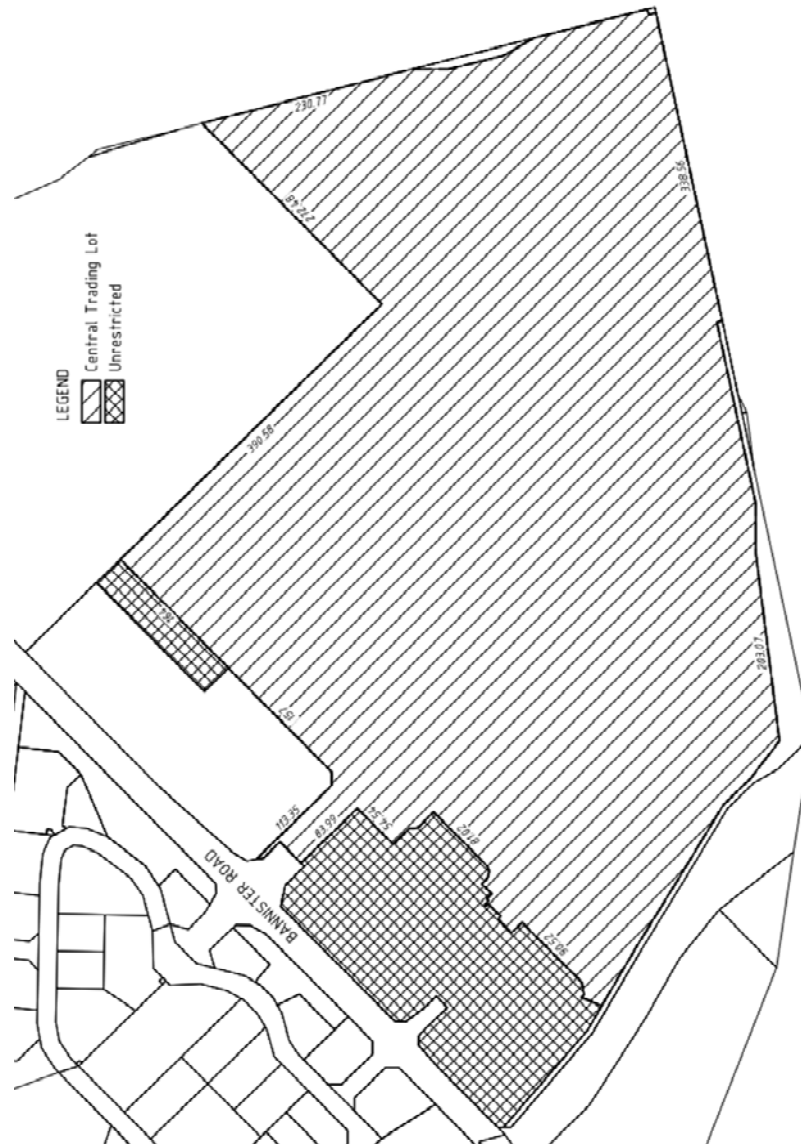
- (1) This section amends the *Statutory Corporations (Liability of Directors) Act 1996*.
- (2) In Schedule 1 in the Table delete the row relating to the Perth Market Authority.

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**Schedule 1 — Central trading lot and central trading area**

[s. 3 and 15(1)]

**Division 1 — Central trading lot**



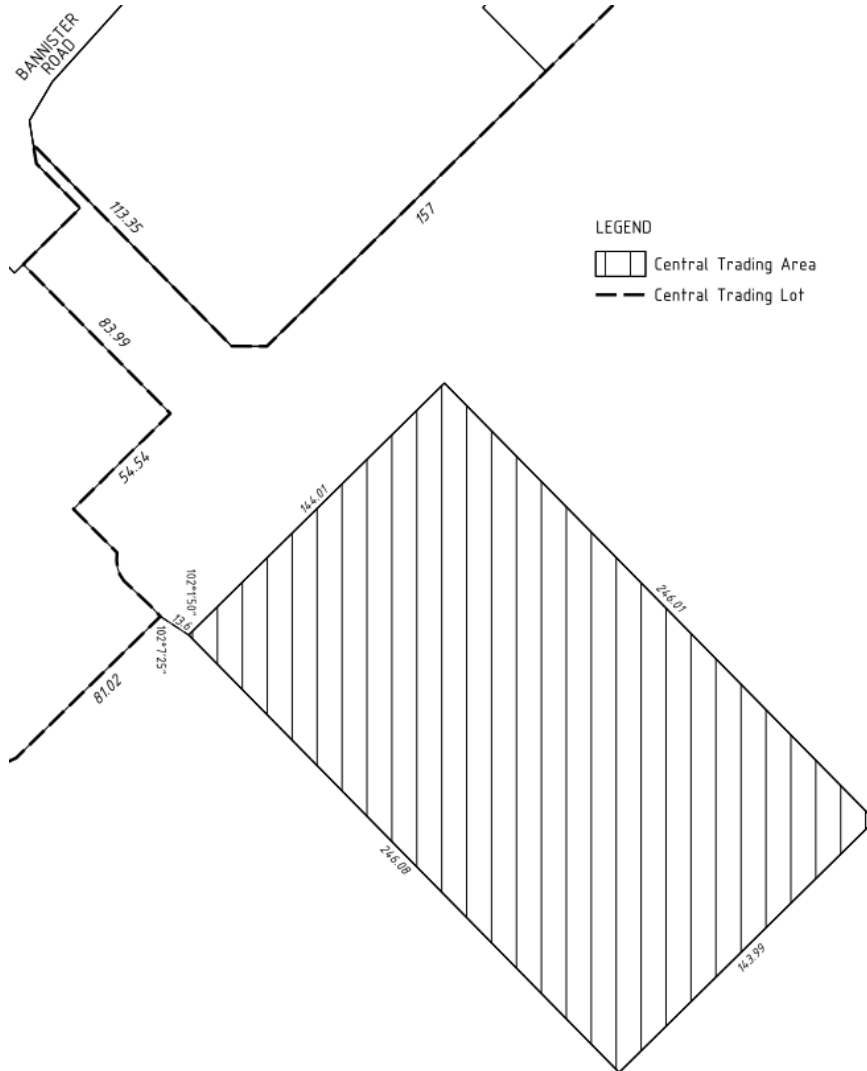
**Perth Market (Disposal) Act 2015**

**Schedule 1** Central trading lot and central trading area

**Division 2** Central trading area

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**Division 2 — Central trading area**





## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
applicable written law .....	35(1)
approval .....	14(1)
asset .....	3
assignee .....	33
assignor .....	33
Authority .....	3, 45
bound recipient .....	29(1)
building work .....	14(1)
central trading area .....	15(1)
central trading lot .....	3
company .....	3
confidential information .....	28(1)
corporate vehicle .....	3
CTL development application .....	16(1)
development .....	14(1)
dispose of .....	3
issue .....	14(1)
liability .....	3
market asset .....	3
Perth market site .....	14(1)
premises .....	14(1)
private entity .....	21(1)
produce .....	3
public market .....	3
publication day .....	40(1), 52(1)
purposes .....	3
record .....	25(1)
relevant official .....	26(1)
relevant record .....	25(1)
right .....	3
section 9 disposal .....	3
specified .....	22(1), 37(1), 52(1)
staff member .....	43(1)
State tax .....	36(1)
statutory corporation .....	21(1)
transfer order .....	3, 21(2)
transfer time .....	3
transferee .....	3, 21(2)

Defined terms

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transferor.....	3, 21(2)
transitional matter .....	52(1)