



Western Australia

## **Perth Market Act 1926**

Compare between:

[09 Dec 2015, 05-j0-00] and [31 Mar 2016, 05-k0-00]



## Perth Market Act 1926

### An Act to establish a public market in the metropolitan area.

#### 1. Short title

This Act may be cited as the *Perth Market Act 1926* <sup>1</sup>.

*[Section 1 amended by No. 6 of 1990 s. 4.]*

#### 1A. Terms used in this Act

In this Act unless the contrary intention appears —

***agent*** means a person who carries on the business of acting for or on behalf of another person in the selling of general produce whether such sale is by auction or otherwise;

***Authority*** means the body corporate known as the Perth Market Authority preserved and continued under section 3;

***Authority official*** means a natural person who —

- (a) is a member of the staff of the Authority;
- (b) is engaged to do things on behalf of the Authority; or
- (c) is an employee of, or acts on behalf of, a person who is engaged to do things on behalf of the Authority;

***general produce*** means prescribed produce and such other produce as is prescribed by the by-laws to be general produce;

***market*** means a place or places in the vicinity of each other (whether contiguous to each other or not) at which persons meet for the purposes of selling or purchasing for resale general produce or prescribed produce, as the case requires, but does not include any place —

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- (a) at which the sale of general produce or prescribed produce, as the case requires, occurs if the place is the premises of the seller; or
- (b) at which the purchase for resale of general produce or prescribed produce, as the case requires, occurs if the place is the premises of the purchaser;

**metropolitan area** means the area described in the Schedule;

**owner** in relation to a vehicle means the person to whom a licence in respect of the vehicle has been granted under the *Road Traffic (Vehicles) Act 2012*, or if there is not such a person, the person who owns the vehicle or is entitled to the possession of the vehicle;

**prescribed area** means the area within a radius of 70 kilometres from the General Post Office at Perth;

**prescribed produce** means fruit and vegetables;

**public market** means the market established by the Authority under this Act.

*[Section 1A inserted by No. 73 of 1969 s. 2; amended by No. 77 of 1981 s. 3; No. 6 of 1990 s. 5; No. 12 of 1995 s. 3; No. 8 of 2012 s. 157.]*

**2. Extension of metropolitan area**

- (1) The Governor may from time to time by regulation amend the metropolitan area —
  - (a) by adding any area to the metropolitan area or by subtracting any area from the metropolitan area; or
  - (b) by deleting and substituting the metropolitan area.
- (2) Regulations made under subsection (1) may provide that this Act, as amended by those regulations, may be cited in the manner specified in those regulations.
- (3) Notwithstanding any increase in the metropolitan area effected by the regulations made under subsection (1) any act or thing lawfully commenced and not discontinued or abandoned, before

the coming into operation of those regulations in an area which was not included in the metropolitan area before that coming into operation but which is in the metropolitan area after that coming into operation may be continued as if those regulations had not come into operation.

*[Section 2 inserted by No. 77 of 1981 s. 4.]*

### 3. Perth Market Authority

(1) On and after the date of commencement of the *Acts Amendment (Perth Market Authority) Act 1990*<sup>1</sup>, the body corporate previously constituted under this Act by the name of the “Metropolitan Market Trust” is preserved and continues in existence as a body corporate under and subject to the provisions of this Act by the name of the “Perth Market Authority”, but so that the corporate identity of the body corporate and its rights and obligations are not affected.

(1aa) The Authority as a body corporate has —

- (a) perpetual succession and a common seal; and
- (b) power to hold land.

(1a) The Authority shall consist of 7 members appointed by the Minister of whom —

- (a) one shall be a person who in the opinion of the Minister has a knowledge of the affairs and interests of persons who carry on the business of buying general produce for the purpose of resale;
- (b) one shall be a person who in the opinion of the Minister has a knowledge of the affairs and interests of agents;
- (c) one shall be a person who in the opinion of the Minister has a knowledge of the affairs and interests of persons by whom or on whose behalf general produce is grown or produced for sale; and
- (d) one shall be a person who in the opinion of the Minister has a knowledge of the affairs and interests of consumers of general produce.

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- (2) Such Authority shall —
- (a) do all things as provided by section 11;
  - (b) carry on and conduct its business and hold any profits arising therefrom,
- for and on behalf of the State of Western Australia.
- (3) The Minister shall appoint a member, not being a member referred to in subsection (1a)(a), (b), (c) or (d), to be chairman of the Authority.

*[Section 3 amended by No. 77 of 1981 s. 5; No. 29 of 1987 s. 4; No. 6 of 1990 s. 6.]*

**3A. Minister may give directions**

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority has to give effect to any such direction.
- (2) The text of any direction given under subsection (1) is to be included in the annual report submitted by the accountable authority of the Authority under Part 5 of the *Financial Management Act 2006*.
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 3A inserted by No. 12 of 1995 s. 4; amended by No. 41 of 1996 s. 3; No. 77 of 2006 s. 17.]*

**3B. Minister to have access to information**

- (1) The Minister is entitled —
- (a) to have information in the possession of the Authority; and
  - (b) where the information is in or on a document, to have, and make and retain copies of, that document.

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- (2) For the purposes of subsection (1) the Minister may —
- (a) request the Authority to furnish information to the Minister;
  - (b) request the Authority to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of the staff of the Authority, or any person engaged to do things on its behalf, to obtain the information and furnish it to the Minister.
- (3) The Authority has to comply with a request under subsection (2) and make its staff, persons engaged by it, and its facilities available to the Minister for the purposes of paragraph (c) of that subsection.

- (4) In this section —

**document** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

**information** means information specified, or of a description specified, by the Minister that relates to the functions of the Authority.

*[Section 3B inserted by No. 12 of 1995 s. 4.]*

#### 4. **Term of office**

Each member of the Authority shall, subject to this Act, hold office for a term of 3 years, and, at the expiration of his term of office, shall be eligible for reappointment.

*[Section 4 inserted by No. 29 of 1987 s. 5; amended by No. 6 of 1990 s. 10.]*

**5. Vacancies**

On the occurrence of any vacancy in the office of a member of the Authority, the Minister may appoint a person to the vacant office, for his predecessor's unexpired term of office.

*[Section 5 amended by No. 29 of 1987 s. 6; No. 6 of 1990 s. 10.]*

**6. Deputy members of Authority**

- (1) In the case of illness, or absence of any member of the Authority, the Minister may appoint some person to act as the deputy of such member. Every person so appointed shall, while so acting, have all the powers and perform the duties of such member.
- (2) If such member is the chairman, the Minister may temporarily appoint another member as acting chairman, who while so acting shall have all the powers and perform the duties of the chairman.

*[Section 6 amended by No. 29 of 1987 s. 6; No. 6 of 1990 s. 10.]*

**7. Tenure of office**

- (1) The Minister may remove a member of the Authority from his office —
  - (a) for misbehaviour or incompetence; or
  - (b) if he is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
  - (c) if he absents himself from 3 consecutive meetings of the Authority (except on leave granted by the Authority) or becomes incapable of performing his duties; or
  - (d) if he becomes concerned or interested in any contract made by or on behalf of the Authority, other than a lease or a tenancy agreement, or participates or claims to be entitled to participate in the profits thereof or in any benefit or emolument arising therefrom.



- (2) Subsection (1)(d) shall not extend to an interest as a shareholder in an incorporated company of at least 20 members.

*[Section 7 amended by No. 29 of 1987 s. 7; No. 6 of 1990 s. 10; No. 18 of 2009 s. 64; No. 19 of 2010 s. 51.]*

**8. Remuneration of members of Authority**

Each member of the Authority shall receive such remuneration by way of salary or fees as the Minister from time to time determines on the recommendation of the Public Sector Commissioner, and such remuneration shall be payable out of and charged upon the revenue of the Authority.

*[Section 8 amended by No. 29 of 1987 s. 8; No. 6 of 1990 s. 10; No. 39 of 2010 s. 89.]*

**9. Meetings of Authority**

- (1) Subject to subsection (2) at all meetings of the Authority, 4 of the members shall form a quorum, and the decision of a majority of the members present regarding any matter shall be deemed to be the decision of the Authority.
- (2) The chairman of the Authority shall, in the event of an equality of votes, have, in addition to a deliberative vote, a second or casting vote.

*[Section 9 inserted by No. 29 of 1987 s. 9; amended by No. 6 of 1990 s. 10.]*

**10. Manager, inspectors and other staff**

- (1) For the purpose of enabling it to perform its functions under this Act the Authority may —
- (a) appoint a manager and other staff; and
  - (b) engage other persons, whether or not natural persons, to do things on its behalf.

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- (1a) The Authority may designate persons who are Authority officials as inspectors, in which capacity they have such powers as are prescribed.
- (2) Notwithstanding anything in subsection (1), to the extent that there is in the case of a person who is appointed under that subsection and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*<sup>3</sup> an inconsistency between this Act and that Act that Act shall prevail.

*[Section 10 amended by No. 73 of 1969 s. 3; No. 29 of 1987 s. 9; No. 113 of 1987 s. 32; No. 6 of 1990 s. 10; No. 12 of 1995 s. 5.]*

**10A. Protection from liability for wrongdoing**

- (1) In this section, a reference to the doing of anything includes a reference to the omission to do anything.
- (2) An action in tort does not lie against a person who is the Minister or a member of the Authority or its staff for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.
- (4) This section does not relieve the Authority of any liability that it might have for the doing of anything by a person against whom this section provides that an action does not lie.
- (5) Subsection (2) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 10A inserted by No. 12 of 1995 s. 6; amended by No. 41 of 1996 s. 3.]*

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**11. Power to establish market**

- (1) The Authority may establish and maintain a public market and branches thereof in the metropolitan area, for the purpose of handling, grading, storing, disinfecting or fumigating, dealing in, selling or otherwise disposing of general produce and may permit land held by the Authority to be used and occupied for the purpose of providing such commercial, business, professional, trade and other facilities as the Authority considers necessary or desirable for the convenience of persons using the market, resorting thereto, or buying or selling therein.
- (2) For such purposes the Authority may —
  - (a) acquire land, machinery, plant, goods, chattels, and effects;
  - (b) erect, maintain, and repair buildings with all necessary machinery and plant;
  - (ba) grant leases of land held by the Authority;
  - (c) construct, or have constructed, or rent, railway sidings and all necessary appurtenances thereto;
  - (d) make roads, market ways, and drains, and convenient approaches to the market;
  - (e) with the approval of the appropriate local government declare, by a notification in the *Gazette*, and constitute any portion of a public street adjacent to the market a part of the market for such times and subject to such conditions as may be prescribed.
- (2a) Subject to the prior approval of the Minister, the Authority may from its funds make grants of money for purposes that, in the opinion of the Authority, will promote the sale of general produce.
- (2b) A grant made under subsection (2a) may be made subject to such terms and conditions as the Authority thinks fit.
- (3) Whenever any land is required by the Authority for the purposes of this Act, such land may be entered upon, surveyed, and taken

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in accordance with Part 9 of the *Land Administration Act 1997*, and that Act shall apply and may be availed of as if the Authority were a local authority.

- (4) Except as provided under subsection (4a), land vested in the Authority shall be exempt from local government and other rates.
- (4a) The Minister may by notice published in the *Gazette* declare any portion of land vested in the Authority —
  - (a) not to be exempt from local government and other rates; or
  - (b) to be exempt only in respect of such percentage of the local government and other rates as is specified in the notice,

and in such a notice may make different provision for different portions of the land.

- (5) Notwithstanding the provisions of this Act as in force from time to time before the date of the coming into operation of the *Metropolitan Market Act Amendment Act 1977*<sup>1</sup>, it shall be deemed that, before that date, the Authority always had all of the powers conferred on it by this Act as amended by that Act.

*[Section 11 amended by No. 31 of 1962 s. 2; No. 25 of 1977 s. 2; No. 77 of 1981 s. 7; No. 29 of 1987 s. 11; No. 6 of 1990 s. 7; No. 14 of 1996 s. 4; No. 31 of 1997 s. 142.]*

**11A. Authority may determine market times**

- (1) The Authority may, by notices erected in such places in the public market and in such other manner as the Authority may determine, indicate —
  - (a) the periods during which the public market is open for business and the produce that may be traded during those periods; and
  - (b) the periods (other than the periods referred to in paragraph (a)) during which, and the purposes in relation

to which, a specified class of person is, or specified classes of persons are, permitted to enter, or prohibited from entering, the public market.

*[(2) deleted]*

- (3) A person who contravenes any provision of a notice referred to in this section commits an offence.

Penalty: \$1 000.

*[(4) deleted]*

- (5) For the purposes of any proceedings or prosecution for an offence against subsection (3) a certificate signed or purporting to be signed by the manager of the Authority or any person authorised by the Authority in that behalf which states that on any date or during any period —

- (a) the public market was open for trading in the produce specified in the certificate; or
- (b) the public market was not open for business and the purpose in relation to which the person specified in the certificate was permitted to enter, or prohibited from entering, the public market,

is evidence of those facts.

*[Section 11A inserted by No. 64 of 1984 s. 2; amended by No. 29 of 1987 s. 12; No. 20 of 1989 s. 3; No. 6 of 1990 s. 10; No. 70 of 2003 s. 43.]*

**[11B.]** *Deleted by No. 70 of 2003 s. 44.]*

**12. Discontinuance of other markets in metropolitan area**

- (1) Subject to subsection (2), the provisions of the *Local Government Act 1995* enabling a local government to provide and establish public markets —
- (a) shall not have effect —
    - (i) in relation to general produce, in the metropolitan area;
    - (ii) in relation to prescribed produce, in the prescribed area;
  - and
  - (b) apply and have effect in relation to the Authority, any person engaged to do things on behalf of the Authority, Authority officials, and the public market and any branch thereof established by the Authority —
    - (i) with respect to general produce, in the metropolitan area; and
    - (ii) with respect to prescribed produce in the prescribed area,
- with such modifications as are necessary for that purpose.
- (2) A local government to which subsection (1) applies may, with the approval of the Governor and under and subject to the *Local Government Act 1995*, provide places for markets for the sale of general produce only by retail.

*[Section 12 amended by No. 37 of 1941 s. 2; No. 77 of 1981 s. 8; No. 6 of 1990 s. 10; No. 12 of 1995 s. 8; No. 14 of 1996 s. 4.]*

**13. By-laws**

- (1) The Authority may make by-laws for all or any of the following purposes —
- (a) the general conduct of its business and proceedings;

- (b) the control, supervision, and guidance of Authority officials and any person engaged to do things on behalf of the Authority;
- (c) regulating the use, leasing, letting, and occupation of the markets established under this Act;
- (d) requiring any person delivering general produce to the public market or any branch thereof to furnish the Authority with such information relating to the general produce so delivered as may be prescribed and providing that no such information shall be divulged by the Authority or any of its members, by any person engaged to do things on behalf of the Authority, or by any Authority official except for such purposes and in such manner as may be prescribed;
- (e) regulating the conduct of persons using the market, resorting thereto, or buying or selling therein;
- (f) regulating vehicular and pedestrian traffic in the market or any branch of the market and prohibiting or regulating the parking or standing of vehicles or vehicles of a specified class in all parts, or in any specified part, of the market or a branch of the market, at all times or at specified times;
- (g) providing for the erection of, and requiring obedience to the directions of, traffic signs, relating to the movement of vehicles or persons and the standing or parking of vehicles, within the market or any branch of the market;
- (h) empowering an inspector to require of a person reasonably believed to have committed an offence against the by-laws his name and address, and providing an offence for the refusal or failure to comply with such a requirement;
- (i) subject to subsection (2b), providing for the registration of forklifts used within the public market and the licensing of drivers of such forklifts;

- (j) exempting any person or vehicle or class of person or class of vehicle from complying with any by-law prohibiting or limiting the parking or standing of vehicles generally or otherwise and authorising a specified Authority official to waive the prosecution of a person for an offence against the by-laws;
- (k) prescribing forms for use under the by-laws;
- (l) prescribing offences for the purposes of sections 13A to 13C by setting out the offences or by reference to the provisions contravention of which constitutes the offences, and, in respect of each such offence, prescribing the penalty, or different penalties according to the circumstances by which the offence is attended, applicable if the offence is dealt with under that section but so that no such penalty exceeds \$1 000;
- (m) regulating the method of selling in the market, and preventing every kind of fraudulent device in relation to the sale of marketable commodities, and prescribing that sales by auction or otherwise may be conducted by Authority officials;
- (n) preventing and suppressing nuisances and enforcing cleanliness in and in connection with such market, and for providing for and regulating the storage, removal, treatment, and disposal of garbage, offal, waste, and sewage;
- (o) prescribing how and by whom and under what conditions and restrictions such market, or any part thereof, may be used and occupied;
- (p) providing for the inspection, seizure, and destruction of produce, products, and provisions unfit for sale;
- (q) prescribing, levying, and collecting rents, tolls, fees, and charges for the use of such market and any part thereof; and
- (r) generally for carrying into effect the provisions of this Act.



- (1A) Any such by-laws shall be subject to the approval of and confirmation by the Governor.
- (2) The Authority may, by such by-laws, fix a maximum penalty for every offence against such by-laws or any of them not exceeding \$2 000.

*[(2a) deleted]*

- (2b) A by-law made pursuant to subsection (1)(i) —
- (a) may prescribe a charge for the issue of identification plates for forklifts and for the training of persons seeking a licence to drive a forklift;
  - (b) shall not prescribe any fee or charge for the registration of forklifts or the licensing of drivers.
- (3) If there shall be any inconsistency between any by-law made under this Act and any local law made under the *Local Government Act 1995* the former shall prevail and the latter shall, to the extent of the inconsistency, become or be invalid.

*[Section 13 amended by No. 113 of 1965 s. 8; No. 73 of 1969 s. 4; No. 25 of 1977 s. 3; No. 77 of 1981 s. 9; No. 64 of 1984 s. 3; No. 20 of 1989 s. 3; No. 6 of 1990 s. 8; No. 12 of 1995 s. 9; No. 14 of 1996 s. 4; No. 70 of 2003 s. 45; No. 19 of 2010 s. 51.]*

### 13A. Terms used in sections 13B and 13C

In sections 13B and 13C —

***alleged offender*** means a person to whom an infringement notice has been issued pursuant to sections 13B and 13C;

***authorised person*** means a person authorised under section 13C to give infringement notices;

***infringement notice*** means notice given under section 13B(1).

*[Section 13A inserted by No. 64 of 1984 s. 4; amended by No. 74 of 2003 s. 92.]*

**13B. Infringement notice**

- (1) Where an authorised person has reason to believe that a person has committed any such offence against this Act or any by-law made under this Act as is prescribed for the purposes of this section, the authorised person may, at or about the time the offence is believed to have been committed, personally give to that person a notice in the prescribed form informing the person that if he does not wish to be prosecuted for the alleged offence in a court, he may pay to a person specified in the notice within the time therein specified, the amount of the penalty prescribed for the offence if dealt with under this section.
- (2) A person given an infringement notice under this section may decline to be dealt with under this section and, if the prescribed penalty is not paid within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under this section.
- (3) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn, at any time within 28 days after the giving of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed person, to the alleged offender advising the alleged offender that the infringement notice has been withdrawn, and, in that event the amount of any prescribed penalty that has been paid shall be refunded.
- (4) Where a prescribed penalty has been paid pursuant to an infringement notice and the notice has not been withdrawn as provided by subsection (3) proceedings shall not be brought against any person with respect to the offence alleged in the notice.
- (5) The amount of any modified penalty paid pursuant to an infringement notice shall, subject to subsection (3), be dealt with as if it were a fine imposed by a court as a penalty for an offence.

- (6) Where the parking or standing of a vehicle is an element of an alleged offence, an infringement notice may be addressed to the owner of the vehicle without naming that person, and the notice may be left in or upon or attached to the vehicle.
- (7) Where under subsection (6), an infringement notice is addressed to the owner of a vehicle and left in or upon or attached to the vehicle then, unless —
- (a) the prescribed penalty for the offence is paid within the time specified in the notice; or
  - (b) the owner of the vehicle within the time specified in the notice for the payment of the penalty —
    - (i) informs an authorised person as to the identity of the person who was the driver or person in charge of the vehicle at the time of the alleged offence; or
    - (ii) satisfies a prescribed person that at the time of the alleged offence the vehicle had been stolen or unlawfully taken or used,

the owner is, in the absence of proof to the contrary, deemed to have committed the offence.

*[Section 13B inserted by No. 64 of 1984 s. 4; amended by No. 6 of 1990 s. 9; No. 78 of 1995 s. 104; No. 84 of 2004 s. 80.]*

### **13C. Authorised persons**

- (1) An Authority official may be authorised by the Authority in writing signed by the chairman of the Authority to give infringement notices.
- (2) The Authority shall issue to each authorised person a certificate in the prescribed form which he shall produce whenever required to do so by a person to whom he has given, or is about to give, an infringement notice.

*[Section 13C inserted by No. 64 of 1984 s. 4; amended by No. 6 of 1990 s. 10; No. 12 of 1995 s. 10.]*

**14. Dues, tolls etc.**

All dues, tolls, rents, and other moneys levied and collected by the Authority —

- (a) shall be paid to the credit of an account in the name of the Authority at a bank to be approved by the Governor; and
- (b) shall be chargeable with the salaries or other remuneration of the members of the Authority, the salaries and wages payable by the Authority, and with all other expenditure lawfully incurred by the Authority in the exercise of its powers under this Act.

*[Section 14 amended by No. 6 of 1990 s. 10.]*

**15. Borrowing powers**

The Authority may, with the approval of the Governor —

- (a) borrow money for the purposes of this Act, and may issue debentures charged on the property and revenues of the Authority to secure the repayment of such money with interest; and
- (b) form a sinking fund to liquidate any such loan, and apply its revenue to the contributions to such fund.

*[Section 15 amended by No. 6 of 1990 s. 10.]*

**16. Advances by Treasurer**

The Treasurer may make advances to the Authority to enable it to defray expenditure prior to or after the establishment of the market, and such advances with interest shall be a charge upon the property and revenue of the Authority.

*[Section 16 amended by No. 98 of 1985 s. 3; No. 6 of 1990 s. 10.]*

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

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

*[Section 17 inserted by No. 98 of 1985 s. 3; amended by No. 6 of 1990 s. 10; No. 77 of 2006 s. 17.]*

**18. Review**

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of the *Perth Market Amendment Act 1995*, and in the course of that review the Minister is to consider and have regard to —
- (a) the effectiveness of the operations of the Authority;
  - (b) the need for the continuation of the functions of the Authority; and
  - (c) such other matters as appear to be relevant to the operation and effectiveness of this Act.
- (2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

*[Section 18 inserted by No. 12 of 1995 s. 11.]*

*[19-21. Deleted by No. 98 of 1985 s. 3.]*

**Schedule — Metropolitan area**

[s. 1A]

*[Heading amended by No. 19 of 2010 s. 4.]*

The metropolitan area is the area within a radius of 50 kilometres from the General Post Office at Perth.

*[Schedule inserted in Gazette 26 Jun 1987 p. 2519.]*

## Notes

- <sup>1</sup> This is a compilation of the *Perth Market Act 1926* and includes the amendments made by the other written laws referred to in the following table <sup>1a-62</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Metropolitan Market Act 1926</i> <sup>4</sup>	55 of 1926 (17 Geo. V No. 55)	24 Dec 1926	24 Dec 1926
<i>Metropolitan Market Act Amendment Act 1941</i>	37 of 1941 (5 & 6 Geo. VI No. 37)	15 Jan 1942	15 Jan 1942
<b>Reprint of the <i>Metropolitan Market Act 1926</i> approved 30 Jun 1960 in Vol. 15 of Reprinted Acts</b> (includes amendments listed above)			
<i>Metropolitan Market Act Amendment Act 1962</i>	31 of 1962 (11 Eliz. II No. 31)	4 Oct 1962	4 Oct 1962
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Metropolitan Market Act Amendment Act 1969</i>	73 of 1969	7 Nov 1969	7 Nov 1969
<b>Reprint of the <i>Metropolitan Market Act 1926</i> approved 24 Jul 1975</b> (includes amendments listed above)			
<i>Metropolitan Market Act Amendment Act 1977</i>	25 of 1977	27 Oct 1977	27 Oct 1977
<i>Metropolitan Market Amendment Act 1981</i>	77 of 1981	9 Nov 1981	1 Apr 1983 (see s. 2 and <i>Gazette</i> 25 Feb 1983 p. 640)
<i>Metropolitan Market Amendment Act 1984</i>	64 of 1984	5 Nov 1984	3 Dec 1984
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Metropolitan Market Regulations 1987</i> published in <i>Gazette</i> 26 Jun 1987 p. 2519			26 Jun 1987

## Perth Market Act 1926

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Short title	Number and year	Assent	Commencement
<i>Metropolitan Market Amendment Act 1987</i>	29 of 1987	29 Jun 1987	s. 1 and 2: 29 Jun 1987; Act other than s. 1 and 2: 27 Aug 1987 (see s. 2 and <i>Gazette</i> 7 Aug 1987 p. 3079)
<i>Acts Amendment (Public Service) Act 1987 s. 32</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)
<i>Acts Amendment (Perth Market Authority) Act 1990 Pt. 2<sup>5</sup></i>	6 of 1990	12 Jul 1990	1 Jan 1991 (see s. 2 and <i>Gazette</i> 21 Dec 1990 p. 6211)
<b>Reprint of the Metropolitan Market Act 1926 as at 25 Sep 1991</b> (includes amendments listed above)			
<i>Perth Market Amendment Act 1995</i>	12 of 1995	30 Jun 1995	28 Jul 1995
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 63</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Statutory Corporations (Liability of Directors) Act 1996 s. 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Acts Amendment (Land Administration) Act 1997 s. 142</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<b>Reprint of the Perth Market Act 1926 as at 17 Nov 2000</b> (includes amendments listed above)			
<i>Acts Amendment and Repeal (Competition Policy) Act 2003 Pt. 11</i>	70 of 2003	15 Dec 2003	21 Apr 2004 (see s. 2 and <i>Gazette</i> 20 Apr 2004 p. 1297)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 92</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)



Short title	Number and year	Assent	Commencement
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<b>Reprint 5: The Perth Market Act 1926 as at 16 May 2008</b> (includes amendments listed above)			
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 64	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4 and 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Road Traffic Legislation Amendment Act 2012</i> Pt. 4 Div. 39	8 of 2012	21 May 2012	27 Apr 2015 (see s. 2(d) and <i>Gazette</i> 17 Apr 2015 p. 1371)

<sup>1a</sup> ~~On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<del><i>Perth Market (Disposal) Act 2015</i> s. 42 and Pt. 6 Div. 2<sup>2</sup></del>	<del>40 of 2015</del>	<del>8 Dec 2015</del>	<del>s. 42: to be proclaimed (see s. 42(2)); Pt. 6 Div. 2: operative on the day on which the <i>Perth Market Act 2015</i> s. 42 (see s. 2(2))</del> <b>This Act was repealed by the Perth Market Act 2016 at 31 Mar 2016 (see <i>Gazette</i> 31 Mar 2016 p. 969)</b>

<sup>2</sup> ~~On the date as at which this compilation was prepared, the *The Perth Market (Disposal) Act 2015* s. 42 and Pt. 6 Div. 2 had not come into operation. They read (other than s. 42) reads as follows:~~

~~42.~~ Part 6 — Repeal of Act

~~(1) — The Perth Market Act 1926 is repealed on a day fixed by proclamation, and related transitional matters~~

~~(2) — A proclamation cannot~~ Division 1 — Repeal of Perth Market Act 1926

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 ~~subsection (1) unless the Minister is satisfied that there is no reason for the Perth Market Act 1926~~ section 10(1)(a) or otherwise employed by the Authority.

(2) Before the Perth Market Act 1926 to remain is repealed under section 42, the Minister —

(a) must, after consulting the Public Sector Commissioner —

(i) nominate the person or body in ~~operation~~ 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).

(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, 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.

<sup>3</sup> Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).

<sup>4</sup> Short title was initially the *Metropolitan Market Act 1926* and was subsequently changed to the *Perth Market Act 1926* (see note under s. 1).

<sup>5</sup> The *Acts Amendment (Perth Market Authority) Act 1990* s. 11 reads as follows:

**11. Transitional**

A reference to the Metropolitan Market Trust, whether by use of that name or a similar or abbreviated form of that name —

- (a) in a written law passed or made before the commencement of this Act;
- (b) in any notice, instrument or other document issued, given, made, executed or entered into before the commencement of this Act; or
- (c) made before the commencement of this Act in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate to do so, be read and construed as if it had been amended to be a reference to the Perth Market Authority.

<sup>6</sup> ~~The *Perth Market (Disposal) Act 2015* Pt. 6 Div. 1 (other than s. 42) reads as follows:~~

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

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

~~**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).~~
  - ~~—(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.~~