

# METROPOLITAN MARKET.

## No. 55 of 1926

As amended by Act No. 37 of 1941, which was assented to on the 15th January 1942, and reprinted pursuant to the Amendments Incorporation Act, 1938.]

### AN ACT to establish a Public Market in the Metropolitan Area

[Assented to 24th December, 1926.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the *Metropolitan Market Act, 1926-1941.*

Short title.  
Amended by  
37 of 1941, s. 3.

2. In this Act, subject as hereinafter provided, the words "Metropolitan Area" mean the municipal district of the City of Perth, except the Eighth Ward (Victoria Park), and the lands included within the boundaries of such district by the City of Perth Endowment Lands Act, 1920.

Metropolitan  
Area.

Provided that the Governor may, by proclamation, extend the boundaries of the Metropolitan Area to include other land within or beyond the boundaries of the said municipal district.

3. (1) There is hereby constituted a body corporate by the name of the Metropolitan Market Trust (hereinafter referred to as "the Trust") with perpetual succession, a common seal, and power to hold land.

The Metro-  
politan Market  
Trust.

(2) The Trust shall consist of five members, to be appointed by the Governor. One of the members of the Trust shall be a representative of producers, and one shall be a representative of consumers, and one shall be nominated by the Council of the City of Perth. Such Trust shall—

(a) do all things as provided by Section 11 hereof ;

(b) carry on and conduct its business and hold any profits arising therefrom,

for and on behalf of the State of Western Australia.

The nomination by the Council of the City of Perth shall be in writing delivered to the Clerk of the Executive Council : Provided that if such nomination is not received within one month from the commencement of this Act, or within one month after any vacancy in the office of a nominated member, an appointment may be made by the Governor of a member of the Trust as the representative of the Council of the City of Perth without any nomination from the Council.

(3) One of the members shall be appointed by the Governor as chairman.

Term of office.

4. Each member of the Trust shall, subject to this Act, hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment.

Vacancies.

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

Deputy member  
of Trust.

6. (1) In the case of illness, or absence of any member of the Trust, the Governor 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 Governor may temporarily appoint another member as acting chairman, who while so acting shall have all the powers and perform the duties of the chairman.

7. The Governor may remove a member of the Trust from his office— Tenure of office.

- (a) For misbehaviour or incompetence ; or
- (b) If he becomes bankrupt, or takes the benefit of any Act for the relief of bankrupt or insolvent debtors ; or
- (c) If he absents himself from three consecutive meetings of the Trust (except on leave granted by the Trust) 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 Trust, or participates or claims to be entitled to participate in the profits thereof or in any benefit or emolument arising therefrom :

Provided that this paragraph shall not extend to an interest as a shareholder in an incorporated company of at least twenty members.

8. Each member of the Trust shall receive such remuneration by way of salary or fees as may be fixed by the Governor, and such remuneration shall be payable out of and charged upon the revenue of the Trust. Remuneration of members of Trust.

9. At all meetings of the Trust three of the members shall form a quorum, and the decision of a majority of the members of the Trust regarding any matter shall be deemed to be the decision of the Trust. Quorum.

10. The Trust may appoint and dismiss a secretary, and such other officers and servants as may be necessary for the purposes of this Act. Officers and servants.

11. (1) The Trust may establish and maintain a public market and branches thereof in the Metropolitan Area, for the sale and storage of fruit, vegetables, meat, fish, poultry, eggs, butter, dairy produce, grain, straw, chaff, hay, and other produce, products and provisions. Power to establish market.

(2) For such purpose the Trust may—

- (a) acquire land, machinery, plant, goods, chattels, and effects ;
- (b) erect, maintain, and repair buildings with all necessary machinery and plant ;
- (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 Council of the City of Perth 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.

(3) Whenever any land is required by the Trust for the purposes of this Act, such land may be entered upon, surveyed, and taken in accordance with the Public Works Act, 1902<sup>1</sup>, and that Act shall apply and may be availed of as if the Trust were a local authority.

(4) Land vested in the Trust shall be exempt from Municipal and other rates :

Provided that the Trust shall be empowered to pay to the Municipal Corporation of Perth such reasonable cost of constructing, maintaining, and repairing roads immediately adjacent to the market and also such cost of lighting, scavenging, watering, and cleansing of such roads as may be mutually agreed upon.

Discontinuance  
of other markets  
in Metropolitan  
Area.  
Amended by  
No. 37 of 1941,  
s. 2.

12. Subject as hereinafter provided, on the publication in the *Gazette* of a proclamation that a market has been established under this Act—

(1) The provisions of the Municipal Corporations Act, 1906<sup>2</sup>, enabling a municipal council to provide market places and to establish markets shall cease to have effect within the Metropolitan Area.

<sup>1</sup> Now Public Works Act, 1902-1956.

<sup>2</sup> Now Municipal Corporations Act, 1906-1959.

Provided that with the approval of the Governor the municipal council may, under and subject to Part XXI. of the Municipal Corporations Act, 1906<sup>1</sup>, provide market places for the sale of produce by retail, but not otherwise.

(2) The Trust may, by by-law :

- (a) Prohibit the sale by auction in the Metropolitan Area of prescribed produce, products, or provisions elsewhere than in the market established under this Act, except sales by auction of grain, straw, chaff, hay, or other produce on Government railway premises ;  
and
- (b) prohibit the sale within a prescribed distance from the market or any branch thereof of prescribed produce, products, or provisions by hawkers or stall keepers, or except on the premises of the seller.
- (c) prohibit the sale in the metropolitan area of any prescribed produce, products, or provisions in any market other than the market established under this Act or a market place referred to in the proviso to subsection (1) of this section, except with the consent of the Trust and subject to the by-laws.

For the purpose of this paragraph "Market" shall mean any place where a number of producers of prescribed produce, products, or provisions or their agents congregate for the purpose of selling or offering for sale any such prescribed produce, products, or provisions.

- (d) prohibit the sale by wholesale in the metropolitan area of fruit and vegetables (except potatoes and onions), fish, poultry, and eggs by agents elsewhere than in the market established under this Act. For the purposes of this paragraph "agent" means a person whose business, either alone or as

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<sup>1</sup> Now Municipal Corporations Act, 1906-1959.

part of or in connection with any other business, is to sell on behalf of producers or other persons any of the goods referred to herein on commission, whether such sale be by auction or otherwise.

Nothing in this paragraph shall prevent any person (not acting as agent for a producer) from selling or exposing for sale in his own shop or warehouse any prescribed produce, products or provisions.

(2a) (1) No person other than the original owner shall sell fish by wholesale, whether by auction or otherwise, within the metropolitan area unless the fish has been sold previously by auction in the market established under this Act.

(2) For the purposes of paragraph (1) of this subsection the expression—

“ Fish ” includes every variety of marine and freshwater fishes and crustacea, and marine animal life, which, after being taken from the waters in which they are found, are not subjected to any process, other than freezing, for the purposes of preserving the same.

“ Original owner ” means—

- (a) the person by whom or by whose servants any fish is taken from the waters in which it is found, when such person is resident within the State ; and
- (b) the person who first receives any fish within the State when the person by whom or by whose servants such fish is taken from the waters in which it is found, is not resident within the State.

(3) The provisions of sections three hundred and fifty-seven to three hundred and seventy-four (both inclusive) of the Municipal Corporations Act, 1906<sup>1</sup>,

<sup>1</sup>Now Municipal Corporations Act, 1900-1959.

shall apply and have effect to and in respect of the Trust and its officers, and the market or any branch established by the Trust, as if repeated herein with the necessary alterations, and expressly made so applicable.

13. (1) The Trust may make by-laws for all or any of the following purposes : By-laws.

- (1) The general conduct of its business and proceedings ;
- (2) The control, supervision, and guidance of its officers and servants ;
- (3) Regulating the use, letting, and occupation of the markets established under this Act ;
- (4) Regulating the conduct of persons using the market, resorting thereto, or buying or selling therein ;
- (5) 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 officers of the Trust.
- (6) 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 ;
- (7) Prescribing how, when, and by whom and under what conditions and restrictions such market, or any part thereof, may be used and occupied ;
- (8) Providing for the inspection, seizure, and destruction of produce, products, and provisions unfit for sale.
- (9) Prescribing, levying, and collecting rents, tolls, fees, and charges for the use of such market and any part thereof ; and
- (10) Generally for carrying into effect the provisions of this Act :

Provided that such by-laws shall be subject to the approval of and confirmation by the Governor.

(2) The Trust may, by such by-laws, fix a maximum penalty for every offence against such by-laws or any of them not exceeding Fifty pounds.

(3) If there shall be any inconsistency between any by-law made under this Act and any by-law made under the Municipal Corporations Act, 1906<sup>1</sup>, the former shall prevail and the latter shall, to the extent of the inconsistency, become or be invalid.

Dues, tolls, etc.

14. All dues, tolls, rents, and other moneys levied and collected by the Trust—

- (a) shall be paid to the credit of an account in the name of the Trust 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 Trust, the salaries and wages payable by the Trust, and with all other expenditure lawfully incurred by the Trust in the exercise of its powers under this Act.

Borrowing powers.

15. The Trust 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 Trust 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.

Advances by Treasurer.

16. The Treasurer may make advances out of moneys appropriated by Parliament to such purpose, to enable the Trust 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 Trust.

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<sup>1</sup>Now Municipal Corporations Act, 1900-1959.



17. The Trust shall cause books to be provided and kept, and true and regular accounts to be entered therein—

Accounts.

- (a) Of all moneys received and paid by the Trust, and of all moneys owing to and by the Trust, and of the several purposes for which such moneys shall have been received and paid and owing ; and
- (b) Of all the assets and liabilities of the Trust.

18. All such books shall be open to the inspection of the Auditor General, and any person authorised by him to inspect the same.

Books may be inspected.

19. The Trust shall cause its accounts to be balanced every year on the thirtieth day of June.

Accounts to be balanced.

20. (1) The Trust shall cause a full and true balance sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor General for audit.

Accounts to be audited.

(2) The Auditor General shall certify that he has found the accounts in order, or otherwise, as the case may be ; that, in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books ; that all items of receipts and payments and all known liabilities and assets have been brought into account, and that the value of all assets has in all cases been fairly stated.

(3) The Auditor General shall, in respect to such accounts, have all the powers conferred on him by the Audit Act, 1904<sup>1</sup>, and any amendment thereof.

21. The Trust shall, once at least in every year, furnish to the Governor a true copy of the accounts so audited, and copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of Parliament.

Copies of accounts as audited to be furnished.

<sup>1</sup> Now Audit Act, 1904-1957.

