

Approved for Reprint 24th July, 1975.

WESTERN AUSTRALIA.

METROPOLITAN MARKET.

No. 55 of 1926.

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 37 of 1941, assented to 15th January, 1942;
No. 31 of 1962, assented to 4th October, 1962;
No. 73 of 1969, assented to 7th November, 1969

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—

1. This Act may be cited as the *Metropolitan
Market Act, 1926-1969.*

Short title.
Amended by
No. 73 of
1969, s. 1.

Definition.
Added by
No. 73 of
1969, s. 2.

1A. In this Act unless the contrary intention appears—

“owner” in relation to a vehicle means the person who is the holder of the requisite vehicle license under the Road Traffic Act, 1974, in respect of the vehicle, or, if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to the possession of the vehicle.

Metropolitan
Area.

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.

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.

The Metro-
politan Mar-
ket Trust.

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.

(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 Perth City Council. 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 Perth City Council 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 Perth City Council without any nomination from the Council.

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

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. Term of office.

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. Vacancies.

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. Deputy member of Trust.

(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

Metropolitan Market

- (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.

Remuneration of members of Trust.

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.

Quorum.

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.

Officers and servants. Amended by No. 73 of 1969, s. 3.

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 and, in particular, may appoint inspectors to exercise such powers as may be prescribed.

Power to establish market. Amended by No. 31 of 1962, s. 2.

11. (1) The Trust 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 fruit, vegetables, meat, fish, poultry, eggs, butter, dairy produce, grain, straw, chaff, hay, and other produce, products and provisions.

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 water 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, 1906¹, 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.

By-laws,
Amended by
No. 113 of
1965, s. 8;
No. 73 of
1969, s. 4.

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

- (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;
- (4a) 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;
- (4b) 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;
- (4c) 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;

¹ Repealed by Local Government Act, 1960.

- (4d) Prescribing the method and means by which charges or penalties prescribed by any by-law may be paid, collected or recovered, including the period within which a person, after being served with a notice of an offence alleged to have been committed by him, may pay to the Clerk of Petty Sessions, Perth the penalty or modified penalty prescribed for that offence;
- (4e) Prescribing the method of notifying a person alleged to have committed an offence against the by-laws of the allegation and how the offence may be dealt with; and prohibiting the removal by any person other than the driver or person in charge of a vehicle of any prescribed notice affixed to or left in or upon the vehicle by an inspector;
- (4f) Providing that, where an allegation is in respect of an offence of which the parking, standing or leaving of a vehicle is an element, a notice of the offence may be addressed to the owner of the vehicle in respect of which the offence is alleged, without naming him, and be affixed to or left in or upon the vehicle and that, where the prescribed penalty for that offence is not paid within the prescribed period, the owner of the vehicle is deemed, in the absence of proof to the contrary, to have committed the offence;
- (4g) 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 officer of the Trust to waive the prosecution of a person for an offence against the by-laws;
- (4h) Prescribing forms for use under the by-laws;

Metropolitan Market

- (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 one hundred dollars.

(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, 1906¹, the former shall prevail and the latter shall, to the extent of the inconsistency, become or be invalid.

¹ Repealed by Local Government Act, 1960.

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

- (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.

15. The Trust may, with the approval of the Governor— Borrowing powers.

- (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.

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. Advances by Treasurer.

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.

Books may
be inspected.

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

Accounts to
be balanced.

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

Accounts to
be audited.

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.

(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, and any amendment thereof.

Copies of
accounts as
audited to be
furnished.

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.