

MELBOURNE WHOLESALE FRUIT AND VEGETABLE MARKET TRUST BILL 1976.

EXPLANATORY MEMORANDUM.

Part I. of the Bill containing clauses 1-3 covers the Short Title, the commencement of the proposed Act, the division into Parts and appropriate interpretations. The several provisions of the Act will come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor-in-Council published in the *Government Gazette*.

Part II. of the Bill covering clauses 4-13 provides for the establishment of the Melbourne Wholesale Fruit and Vegetable Market Trust.

Clause 4 provides that the Trust shall be a body corporate which may acquire, hold and dispose of personal property and may, with the approval of the Governor-in-Council acquire, hold and dispose of real property.

Clause 5 sets out the functions of the Trust which are the controlling, maintaining and managing of the Melbourne wholesale fruit and vegetable market and the market land and such other functions as are otherwise conferred on it. *Clause 6* provides that the Trust has power to do all things necessary or convenient to be done in connexion with the performance of its functions and without limiting that generality further provides that the Trust may, subject to the Act, grant leases, tenancies, permits and licenses of land forming part of, or of buildings or chattels on the market land and may enter into agreements with other persons for the sale by the Trust on behalf of those persons of fruit, vegetables or cut flowers, and may provide on the market land buildings, premises, machinery or other equipment for the purposes of the market.

Clause 7 provides that the Trust shall consist of six members appointed by the Governor-in-Council three of whom shall be persons nominated by the Minister after consideration of panels of names submitted from one or more organizations that in his opinion represent the interests of persons who use the market. The Governor-in-Council will appoint one member to be Chairman of the Trust and another member to be Deputy Chairman. Each member of the Trust will hold office for a period not exceeding three years and be eligible for re-appointment.

Clauses 8, 9 and 10 allow the Governor-in-Council to fix the remuneration and travelling and other allowances payable to the Chairman and each other member, and provide for the appointment of acting members, the termination of office of members and the filling of extraordinary vacancies.

Clause 11 relates to meetings of the Trust and *Clause 12* specifically provides that the Trust shall appoint a Secretary of the Trust, a Manager of the market and such other officers and employees as are necessary on such terms and conditions as it determines.

Clause 13 gives the Trust power to appoint such Advisory Committees as it thinks fit to advise the Trust on such matters as it determines. Such an Advisory Committee would consist of such persons who represent the interests of persons who use the market as the Trust determines. A member of an Advisory Committee will be paid travelling and other allowances as are fixed by the Governor-in-Council.

Part III. of the Bill covering clauses 14-25 sets out the financial provisions affecting the Trust and relates to banking, investment, grants, borrowing, superannuation, insurance, accounts and audit, sinking fund, the issue of debentures and the appointment of a receiver.

Clause 14 refers to banking requirements and provides that the Trust may invest moneys of the Trust in such manner as the Treasurer of Victoria approves.

Clause 15 provides that the Trust may make grants of money, subject to such terms and conditions as it determines, to persons for purposes that in its opinion will promote the sale of fruit and vegetables at the market.

Clause 16 and 17 relates to the Trust's powers to borrow on overdraft of its current account in a bank with the approval of the Treasurer of Victoria provided that the Trust shall not borrow moneys if as a result of the borrowing there would at any time be owed by the Trust amounts totalling in excess of \$20,000,000. The repayment of all moneys borrowed by the Trust under the provisions of the Bill and the payment of interest on these moneys is guaranteed by the Government of Victoria.

Clause 18 refers to the Trust's powers with relation to superannuation schemes and to the insurance of members of the Trust other than officers of the Public Service of Victoria against accidents or sickness.

Clause 19 relates to the accounts of the Trust and the audit thereof. The Minister is required to cause the accounts, balance sheets and reports submitted to him to be laid before both Houses of Parliament.

Clause 20 restrains the Trust from entering into any contract the consideration of which exceeds \$50,000 unless sanctioned by the Minister.

Clause 21 provides power for the Trust, with the approval of the Treasurer of Victoria and subject to such terms and conditions as he imposes to borrow moneys for the purposes of the Act by the issue of debentures and for the creation and issue of inscribed stock. The due repayment of the principal sums and the payment of all interest secured by any debentures or stock is guaranteed by the Government of Victoria.

Clause 22 relates to the establishment of a sinking fund whilst *Clause 23* provides power for trustees to invest trust funds in any debentures and stock issued by the Trust.

Clause 24 provides for the appointment of a receiver in specified cases if at the expiration of three months from the time when any principal moneys or interest has become due on any debenture or on any stock issued by the Trust and after demand in writing the same is not paid.

Clause 25 provides that the provisions of Schedule 1 shall apply with respect to debentures and stock issued under the Act.

Part IV. of the Bill which comprises clauses 26-38 covers the General provisions of the Bill.

Clauses 26, 27, 28, 29 and 30 relate to the powers of the Trust to use the market land as a site for a market and for other purposes provided by the Act.

Clause 27 refers to the use of market land for purposes associated with the market and without limiting that general provision permits the use of part of the market land for the purposes of offices, shops, hotels, motels, banks, service stations, restaurants and warehouses.

Clause 28 provides that the Trust, with the approval of the Minister, may permit the use of the market area for other purposes outside market hours.

Clause 29 provides that the Trust shall not permit the sale by wholesale on the market land of commodities other than fruit, vegetables, cut flowers and such other commodities as are from time to time specified by the Governor-in-Council on the recommendation of the Trust. This clause also provides that the Trust shall not permit the sale by retail in the market area of fruit, vegetables, cut flowers or any other commodities except with the consent of the Minister. *Clause 30* provides that a person who sells by wholesale on the market land or by retail in the market area other than in accordance with the Act shall be guilty of an offence.

Clause 31 relates to the rights of an existing licence trader who immediately before the date of commencement of the relevant section carried on business of selling fruit and vegetables, other than potatoes and onions, by wholesale in the specified wholesale trading area. An existing licence trader may apply to the Trust for a licence to sell the specified product by wholesale in the wholesale trading area which is now defined as a radius of 50 kilometres from the post office at the corner of Elizabeth and Bourke Streets, Melbourne, and the Trust shall grant to an applicant a licence authorizing the applicant to sell produce by wholesale in that part of the wholesale trading area in which, immediately before the date of commencement of the relevant section, he was authorized to carry on a business of selling produce by wholesale. Such a licence shall be issued subject to such produce being bought in the market area and to the same terms and conditions as those on which, immediately before that date, he carried on that

business. This clause also provides that such a licence shall have effect until surrendered or until terminated by the Trust, with the approval of the Minister, where the holder of a licence has contravened the provisions of the Act, the regulations or the terms or conditions of the licence or, with the approval of the Minister, at any time after the expiration of seven years after the commencement of the section, by notice in writing given to the holder of the licence. Appeal provisions have been included.

Clause 32 exempts the Trust from the payment of rates under the *Local Government Act* 1958 whilst Clause 33 provides that certain provisions of the *Markets Act* 1958 and the Acts specified in the Fifth Schedule to that Act shall not apply with respect to the market land or to the market.

Clause 34 gives power to the Trust, with the approval of the Governor-in-Council to acquire land and upon appropriate notice being published by the Trust in the *Government Gazette* that land shall be part of the market land.

Clause 35 gives the Trust power to terminate a lease, tenancy, permit or licence where the lessee, tenant, permittee or licensee has contravened the provisions of the Act, the regulations or the terms or conditions of the lease, tenancy, permit or licence or of the *Farm Produce Merchants and Commission Agents Act* 1965 or of regulations under that Act insofar as they are applicable to him. Appeal provisions have been included.

Clauses 36 and 37 relate to legal proceedings whilst Clause 38 provides the necessary powers for the Governor-in-Council, on the recommendation of the Trust, to make regulations.

Part V. of the Bill contains the remaining clauses of the Bill which cover the transitional provisions and consequential amendments.

Clause 39 provides that the Governor-in-Council shall proclaim an appointed day on which the market land shall vest in the Trust. The appointed day is to be a day not less than three months after the date of publication of the proclamation in the *Government Gazette* but the appointed day shall not be proclaimed unless the Finance Committee established under section 40 has made its recommendation to the Governor-in-Council.

Clause 40 establishes a Finance Committee for the purposes of making recommendations to the Governor-in-Council in relation to the consideration to be given by the Trust to the Melbourne City Council in respect of the transfer of the market land and the right, title and interest of the Council in or in relation to the ownership, control, maintenance and management of the market. The Governor-in-Council may, upon receiving the recommendations of the Finance Committee approve the recommendations or approve them subject to such variations as he determines.

Clause 41 provides that where any property, income, assets, rights, liabilities, expenses or matters require to be apportioned, settled, adjusted or determined, the Council and the Trust may make such agreement as is necessary and, where such matters have not been fixed by agreement, the Governor-in-Council may by Order apportion, settle, adjust or determine them.

Clause 42 refers to the transfer of the market on the appointed day from the Council to the Trust and provides that the Council is entitled to such consideration as is recommended by the Finance Committee and approved by the Governor-in-Council. Provision has also been made whereby the Trust and the Council may, on or before the appointed day, enter into an agreement not inconsistent with the Act, as part of or in addition to the agreement referred to in clause 41 which may contain terms and conditions relating to the giving of consideration by the Trust to the Council as approved by the Governor-in-Council and to the manner in which the consideration is to be given.

Clause 43 provides that should the relevant agreement make provision for the transfer to the Trust of debts or liabilities of the Council, being debts or liabilities under debentures or inscribed stock issued under the *Melbourne and Geelong Debentures and Inscribed Stock Act* 1932 the Trust shall, as soon as practicable after the appointed day issue to the holders or registered owners thereof debentures or inscribed stock of the Trust in lieu thereof.

Clause 44 provides that the Trust shall be entitled to be paid in each year such amounts as the Treasurer of Victoria recommends and as are appropriated by Parliament in respect of one-half of the amount of the consideration payable by the Trust to the Council under the relevant agreement.

Clause 45 safeguards the continuity of status, operation or effect of any lease, tenancy, permit or licence granted by the Council in respect of the market land or of buildings or chattels on that land granted before the appointed day. However, notwithstanding any provision to the contrary such a lease, tenancy, permit or licence shall terminate upon the expiration of three years after the date of commencement of the relevant section unless an earlier date is specified in the lease, tenancy, permit or licence.

Clause 46 safeguards the rights of employees of the Melbourne City Council who immediately before the appointed day were employed wholly or principally at the market and commenced to be so employed at least one year before the appointed day. Such a person may elect to become an officer or employé of the Trust provided that the election shall be made in writing given to the Trust not later than two months before the appointed day or before such later date before the appointed day as the Trust in a particular case determines. The clause specifically provides that such a person shall be paid remuneration that is not less than that which he was receiving before the appointed day as an officer or employé of the Council, and is entitled to such long service leave, recreation leave and sick leave as the Trust determines not being less than that to which he was entitled immediately before that day.

Clause 47 amends the *Road Traffic Act 1958* to enable the Trust to control traffic on the market land.

Clause 48 provides for the repeal of existing Acts.