

1963

VICTORIA.



ANNO DUODECIMO.

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7005.

An Act with respect to the Limitation of the Rights of Certain Wholesale Traders in Fruit and Vegetables in relation to the proposed Establishment of a New Wholesale Fruit and Vegetable Market at Footscray-road, West Melbourne, and for purposes connected therewith.

[21st May, 1963.]

Preamble.

WHEREAS a fruit and vegetable market known as the Queen Victoria Market has been and is now being conducted and managed by and on behalf of the City of Melbourne upon lands granted to the corporation of that city pursuant to the provisions of the *Melbourne General Market Lands Act 1917* upon trust for market purposes :

And whereas the council of the said city now proposes to establish a wholesale fruit and vegetable market (hereinafter called "the new wholesale market") upon lands acquired or to be acquired for that purpose in Footscray-road, West Melbourne, and to close the said Queen Victoria Market for the wholesale marketing of fruit and vegetables :

And whereas to ensure the economic and financial stability of the new wholesale market it is expedient that upon the establishment of that market the rights of certain classes of existing traders

should

should be limited as hereinafter provided and for that purpose it is expedient to define a wholesale trading area and a Queen Victoria Market area as hereinafter set out :

And whereas since the proposal to establish the new wholesale market has become known to the public certain persons have established new businesses at premises in the wholesale trading area and particularly in the vicinity of the Queen Victoria Market with the apparent intention of gaining rights of accommodation and trading in the new wholesale market :

And whereas it is expedient to prevent the continuance of this practice and to preclude or restrict as hereinafter provided any rights of trading in the new wholesale market and at premises in the said area in respect of persons who establish such businesses after the introduction of the Bill for this Act into Parliament :

And whereas in order to provide for the efficient planning and construction of the new wholesale market it is expedient to authorize and require the council of the City of Melbourne by notice and advertisement as hereinafter provided to call for applications from traders desirous of obtaining accommodation as wholesale traders in the new wholesale market and to provide that traders failing to make application in accordance with that notice shall not have any rights of accommodation or trading in the new wholesale market :

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Wholesale Fruit and Vegetable Market (Traders) Act 1963.* Short title.

2. In this Act unless inconsistent with the context or Interpretation. subject-matter—

“ Existing licensed trader ” means a person who at the eleventh day of December One thousand nine hundred and sixty-two— “ Existing licensed trader.”

(a) holds a licence as a farm produce agent within the meaning of the *Farm Produce Agents Act 1958* ; and

(b) is engaged in a substantial business of both buying and selling fruit or vegetables by wholesale (whether on his own behalf or as an agent for a principal) and who in the course of that business sells fruit or

vegetables

vegetables by wholesale at the Queen Victoria Market (otherwise than in the growers' section thereof) or at business premises within the wholesale trading area—

and includes any person who by assignment transfer purchase amalgamation or otherwise becomes the proprietor of such a business.

"Fruit."

"Vegetables."

"Fruit" and "vegetables" have respectively the meanings for the time being ascribed to them pursuant to the *Fruit and Vegetables Act 1958*.

"Queen Victoria Market area."

"Queen Victoria Market area" means the area in the City of Melbourne (other than the Queen Victoria Market) bounded as follows: Commencing at the intersection of Bourke-street and Russell-street and bounded thence by Russell-street to Lygon-street, thence by Lygon-street to Grattan-street, thence by Grattan-street to Wreckyn-street, thence by Wreckyn-street to Arden-street, thence by Arden-street to Abbotsford-street, thence by Abbotsford-street to the railway line between North Melbourne and Spencer-street railway stations, thence by that railway line to a point on that railway line in line with the prolongation of Bourke-street and thence by that prolongation and by Bourke-street to the point of commencement.

"Wholesale trading area."

"Wholesale trading area" means the area (other than the new wholesale market) within a radius of ten miles from the post office at the corner of Elizabeth-street and Bourke-street in the City of Melbourne.

Effect of establishment of new wholesale market upon rights of persons other than existing licensed traders.

3. (1) Upon the establishment of the new wholesale market and the closing of the Queen Victoria Market for the wholesale marketing of fruit and vegetables a person other than an existing licensed trader—

- (a) shall not have any right of accommodation or right of trading in the new wholesale market unless he has at the time of the said establishment a right of accommodation and wholesale trading in fruit or vegetables in the Queen Victoria Market;
- (b) shall be prohibited from carrying on the business of selling fruit or vegetables by wholesale (whether on his own behalf or as an agent for a principal) at any business premises or otherwise within the Queen Victoria Market area; and
- (c) shall not be entitled to receive and shall not receive any compensation for or in respect of any such limitation of rights or prohibition from trading.

(2) Upon

(2) Upon the establishment of the new wholesale market and the closing of the Queen Victoria Market for the wholesale marketing of fruit and vegetables every person whether an existing licensed trader or not—

Effect of establishment of new wholesale market upon wholesale selling in Queen Victoria Market area.

- (a) shall be prohibited from carrying on the business of selling fruit or vegetables by wholesale (whether on his own behalf or as an agent for a principal) at any business premises or otherwise within the Queen Victoria Market Area ; and
- (b) shall not be entitled to receive and shall not receive any compensation for or in respect of such prohibition from trading—

but any existing licensed trader who satisfies the council of the City of Melbourne that his business is likely to be reduced by such prohibition shall have a right of accommodation and a right of trading in the new wholesale market subject to such terms and upon such conditions as may hereafter be prescribed by or under any Act :

Provided that any existing licensed trader whose business premises are within the Queen Victoria Market area shall not be prohibited from selling fruit or vegetables by wholesale at his premises if—

- (i) he buys the fruit or vegetables (excluding potatoes and onions) in the new wholesale market ;
- (ii) he does not sell any fruit or vegetables whatsoever to any person who sells fruit or vegetables by retail in the Queen Victoria Market or to any agent for such a person ; and
- (iii) he waives any right of accommodation in the new wholesale market.

(3) Upon the establishment of the new wholesale market and the closing of the Queen Victoria Market for the wholesale marketing of fruit and vegetables every person who is engaged in wholesale trading in fruit or vegetables—

Effect of establishment of new wholesale market upon wholesale selling outside Queen Victoria Market area but within wholesale trading area.

- (a) shall be prohibited from carrying on the business of selling fruit or vegetables by wholesale (whether on his own behalf or as an agent for a principal) at any business premises or otherwise within the wholesale trading area but outside the Queen Victoria Market area unless he is an existing licensed trader and buys the fruit or vegetables (excluding potatoes and onions) in the new wholesale market ; and

(b) shall

(b) shall not be entitled to receive and shall not receive any compensation in respect of such prohibition from trading—

but any existing licensed trader who satisfies the council of the City of Melbourne that his business is likely to be reduced by such prohibition and that he will not carry on wholesale trading in fruit or vegetables within the wholesale trading area after the establishment of the new wholesale market shall have a right of accommodation and a right of trading in the new wholesale market subject to such terms and upon such conditions as may hereafter be prescribed by or under any Act.

(4) The provisions of this section shall not prohibit any grower of fruit or vegetables who sells his own produce only from delivering his produce directly to a retailer for retail sale in the wholesale trading area.

(5) Every farm produce agent's licence for the time being in force pursuant to the provisions of the *Farm Produce Agents Act 1958* shall be deemed to be issued subject to a condition that the holder thereof shall comply with the provisions of this Act : and any contravention of the provisions of this Act shall be a ground under the *Farm Produce Agents Act 1958* for cancelling such licence.

Authority and direction to council of City of Melbourne to call for applications from traders for trading rights in new wholesale market.

4. (1) The council of the City of Melbourne shall as soon as possible after the commencement of this Act by public notice in two or more daily newspapers circulating in the wholesale trading area and by notice sent by registered post to each existing licensed trader addressed to him at his last known place of business call upon every such trader, if he is desirous of obtaining accommodation and rights as a wholesale trader in fruit or vegetables in the new wholesale market, to make application in the manner required by the notice and to provide in relation to the application all such particulars as are required by the notice.

Traders who fail to apply within one month not entitled to trading rights in new wholesale market.

(2) Any existing licensed trader who within the period of one month next after the posting of the notice addressed to him fails to make application in the manner required by the notice or to provide in relation to his application all the particulars required by the notice shall not upon the establishment of the new wholesale market have any right of accommodation or right of trading therein.