

No. 29 of 1971

AN ORDINANCE

To provide for the Establishment of the Canberra Retail Market Trust and for the Management and Control by the Trust of the Canberra Retail Market.

I THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1970*.

Dated this fourth day of November, 1971.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

RALPH J. HUNT
Minister of State for the Interior.

CANBERRA RETAIL MARKET TRUST ORDINANCE 1971

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Canberra Retail Market Trust Ordinance 1971*.^{*} Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice published in the *Gazette*. Commencement.

3. This Ordinance is divided into Parts, as follows:— Parts.

Part I.—Preliminary (Sections 1-4).

Part II.—Establishment and Constitution of the Trust (Sections 5-15).

Part III.—Functions and Powers of the Trust (Sections 16-20).

Part IV.—Finance (Sections 21-27).

Part V.—Licences and Permits (Sections 28-31).

Part VI.—Miscellaneous (Sections 32-38).

^{*} Notified in the *Commonwealth Gazette* on 11 November 1971.

Definitions.**4.** In this Ordinance, unless the contrary intention appears—

“licence” means a licence granted by the Trust under section 28 of this Ordinance;

“licensee” means the holder of a licence;

“permit” means a permit granted under section 29 of this Ordinance;

“prescribed goods” means—

(a) goods, or goods included in a class of goods, specified in the First Schedule to this Ordinance; and

(b) such other goods as are specified in the regulations or are included in a class of goods specified in the regulations;

“the Canberra Retail Market” means the land comprising block 1, section 7, Division of Fyshwick, Canberra City District and the buildings, structures and other improvements on that land;

“the Chairman” means the Chairman of the Trust;

“the Trust” means the Canberra Retail Market Trust established by this Ordinance;

“trustee” means a member of the Trust, and includes the Chairman and an acting trustee.

PART II.—ESTABLISHMENT AND CONSTITUTION OF THE TRUST.**Establishment
of Trust.**

5.—(1.) For the purposes of this Ordinance, there shall be a body to be known as the Canberra Retail Market Trust.

(2.) The Trust—

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the trust affixed to a document and shall presume that it was duly affixed.

**Independence
of Trust.**

6. It is not the intention of this Ordinance that the Trust shall be, or shall be regarded as, for any purpose, the servant or agent of the Executive Government of the Commonwealth.

**Constitution
of Trust.**

7.—(1.) The Trust shall consist of three trustees who shall be appointed by the Minister.

(2.) One of the trustees shall be an elected member of the Advisory Council nominated, as occasion requires, by the Advisory Council.

(3.) Another of the trustees shall be an officer of the Department of the Interior.

(4.) The remaining trustee shall be a person who is not an officer or an employee within the meaning of the *Public Service Act* 1922-1968 or an officer or employee of an authority established by or under an Act or Ordinance.

(5.) A person is not eligible for appointment, and shall not hold office, as a trustee if—

- (a) he is a member of a firm, or is a director or officer of a company, society, association or corporation directly or indirectly carrying on business, whether within or outside the Territory and whether by wholesale or retail, in the course of which prescribed goods are sold; or
- (b) he receives, directly or indirectly, any remuneration, emoluments or other benefit from such a firm, company, society, association or corporation otherwise than by way of payment for services of a professional nature rendered by that person.

8. A trustee holds office, subject to this Ordinance, for a period of three years from the date of his appointment, but is eligible for re-appointment. Tenure of office.

9.—(1.) The Minister shall appoint one of the trustees, other than the trustee who is an officer of the Department of the Interior, to be the Chairman of the Trust. Chairman of Trust.

(2.) In the event of the absence of the Chairman or his inability, for any reason, to perform any of the powers or functions of the Chairman under this Ordinance, the other trustee who is not an officer of the Department of the Interior, may exercise or perform that power or function.

10. A trustee shall be paid fees and allowances in accordance with the regulations. Remuneration.

11. The Minister may grant leave of absence to a trustee upon such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence.

12.—(1.) The Minister may remove a trustee from office for misbehaviour or physical or mental incapacity. Vacation of office.

(2.) If the trustee who is not an officer or employee within the meaning of the *Public Service Act* 1922-1968, or an officer or employee of an authority established by or under an Act or Ordinance becomes such an officer or employee, the Minister shall remove the trustee from office.

(3.) The trustee who is an elected member of the Advisory Council ceases to be a trustee on the expiration of his term of office as a member of the Advisory Council current at the date of his appointment as a trustee.

(4.) If the trustee who is an officer of the Department of the Interior ceases to be an officer of that Department, the Minister shall remove him from office.

(5.) If a trustee—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) becomes of unsound mind;
- (c) is convicted in Australia of an offence punishable by imprisonment for one year or longer;
- (d) is absent, except on leave granted by the Minister, from three consecutive meetings of the Trust; or
- (e) becomes ineligible to hold office by virtue of sub-section (5.) of section 7 of this Ordinance,

the Minister shall remove the trustee from office.

Resignation
of trustee.

13. A trustee may resign his office by writing under his hand addressed to the Minister.

Appointment
of acting
trustee.

14.—(1.) Where—

- (a) a trustee is or is about to be absent from the Territory;
- (b) a trustee is or is about to be unavailable to perform the functions of his office; or
- (c) there is a vacancy in an office of trustee,

the Minister may appoint a person to act as a trustee while the trustee is so absent or unavailable or during the vacancy, and a person so appointed shall, while so acting, be deemed to be a trustee.

(2.) A person appointed under this section shall be paid fees and allowances in accordance with the regulations.

Meetings of
Trust.

15.—(1.) The Trust shall meet as and when necessary and so that not more than three months elapses between any two meetings of the Trust.

(2.) A meeting of the Trust shall be convened by the Chairman of his own motion or at the request in writing of a trustee.

(3.) Subject to the next succeeding sub-section, a meeting of the Trust shall not be held or continued unless all trustees are present.

(4.) If there is a vacancy in an office of trustee, a meeting may be held or continued by the remaining two trustees.

(5.) The Chairman shall preside at all meetings of the Trust or, if the office of Chairman is vacant, the member who is not an officer of the Department of the Interior shall preside at any meeting held during the vacancy.

(6.) All questions arising at a meeting of the Trust shall be determined by a majority of votes and, if at a meeting of the Trust at which only two trustees are present, the two trustees present are divided in opinion on any question, the question shall not be decided until the meeting at which three trustees are present is held.

(7.) Subject to this Ordinance, the procedure at meetings of the Trust shall be as the Trust determines.

PART III.—FUNCTIONS AND POWERS OF THE TRUST.

16. The functions of the Trust are—

Functions of Trust.

- (a) subject to this Ordinance and, while the Trust has the right referred to in sub-section (1.) of section 18 of this Ordinance, to any conditions imposed under that sub-section, to occupy the Canberra Retail Market, and to manage and control it as a public market for the retail sale of prescribed goods; and
- (b) to control, within the Canberra Retail Market, the activities of persons to whom licences and permits are issued.

17.—(1.) Subject to this Ordinance, the Trust has power to do all things necessary or convenient to be done in connexion with or as incidental to, the performance of its functions.

Powers of Trust.

(2.) Without limiting the generality of the last preceding sub-section, the powers of the Trust include power—

- (a) to employ, on such terms and conditions as are determined by the Trust, such persons as are necessary for the efficient management and control of the Canberra Retail Market;
- (b) to determine the days of the week on which the Canberra Retail Market shall be open for business and the hours on each of those days during which it shall be open for business;
- (c) to determine the conditions subject to which licences to sell prescribed goods and permits to provide services and to sell goods in the Canberra Retail Market may be granted;
- (d) to grant licences to sell prescribed goods at the Canberra Retail Market; and
- (e) to grant permits authorizing the holders to provide services for, and to sell goods in the Canberra Retail Market to, members of the public and licensees.

18.—(1.) The Minister shall, on behalf of the Commonwealth and subject to the acceptance by the Trust of such conditions (including conditions as to the maintenance of the Canberra Retail Market)

Right to occupy and use Canberra Retail Market.

as the Minister thinks necessary, grant to the Trust by writing under his hand the right to occupy and use the Canberra Retail Market for the purposes of its functions under this Ordinance.

(2.) The Trust ceases to have the right conferred by the last preceding sub-section if and when the land comprising block 1, section 7, Division of Fyshwick, Canberra City District, becomes the land comprised in a lease granted by the Commonwealth to the Trust under a law in force in the Territory.

Powers of
Minister with
respect to
policy.

19. The Minister may give directions to the Trust with respect to the general policy to be adopted by the Trust in relation to any matter, and the Trust shall comply with any directions so given.

Delegations of
powers by
Trust.

20.—(1.) The Trust may, either generally or in relation to a matter or class of matters, by writing under its common seal, delegate all or any of its powers under this Ordinance (except this power of delegation).

(2.) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Trust.

PART IV.—FINANCE

Bank account.

21.—(1.) The Trust shall open and maintain an account or accounts at a bank or banks in the Territory, and shall at all times maintain at least one such account.

(2.) The Trust shall pay all moneys of the Trust (including any moneys paid to the Trust out of the moneys appropriated by the Parliament for the purposes of the Trust) into an account referred to in this section.

Borrowing.

22.—(1.) The Trust may borrow moneys on overdraft or otherwise from a bank for any purpose of the Trust.

(2.) The rights of a bank from which moneys are borrowed under the last preceding sub-section are not affected or prejudiced by any application by the Trust of moneys so borrowed.

(3.) The Trust shall not borrow otherwise than in accordance with this section.

Application
of moneys.

23. Subject to the next succeeding section, the moneys of the Trust shall be applied only—

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Trust or imposed by law on the Trust in or in connexion with the exercise of its powers and functions under this Ordinance; and

(b) in payment of remuneration, fees and allowances of the trustees and employees of the Trust.

24. Moneys of the Trust not immediately required for the purposes of the Trust may be invested— Investments.

- (a) on fixed deposit with a bank; or
- (b) in any manner in which trust moneys may, for the time being, be invested under the *Trustee Ordinance* 1957-1968.

25. The Trust shall cause to be kept, in relation to the Canberra Retail Market, proper accounts and records, and shall do all things necessary to ensure that all payments out of its moneys are properly authorized and correctly made and that adequate control is maintained over the assets of the Trust and the incurring of liabilities. Accounts and records.

26.—(1.) The Trust shall cause its accounts and records to be inspected and audited by a registered company auditor. Audit.

(2.) The auditor shall forthwith draw the attention of the Trust to any irregularity disclosed by his audit that, in his opinion, is of sufficient importance to justify his so doing.

(3.) The auditor shall report at least once in each year to the Minister the results of the audit carried out under this section.

27.—(1.) The Trust shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year. Annual report of Trust.

(2.) Before furnishing the financial statements to the Minister, the Trust shall submit them to the auditor appointed by it who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets by the Trust during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Minister.

PART V.—LICENCES AND PERMITS.

28. A licence granted by the Trust— Licences.

- (a) shall authorize the person to whom it is granted to occupy a specified stall in the Canberra Retail Market on each of the days during which the Market is open for business in the week commencing on a day specified in the licence;
- (b) shall authorize the person to whom it is granted to sell at the stall specified in the licence goods included in a class of goods specified in the licence, being prescribed goods, during the hours when the Canberra Retail Market is open for business on each of those days; and

- (c) is subject to the conditions determined by the Trust to be the conditions subject to which licences are to be granted.

Permits.

29. A permit granted by the Trust—

- (a) shall authorize the person to whom it is granted to provide specified services for, or to sell specified goods or goods included in a specified class of goods to, licensees and members of the public on each of the days during which the Canberra Retail Market is open for business in the week commencing on a day specified in the permit or during such other period as is specified in the permit;
- (b) shall specify the means by which the specified services are to be provided or the place at which the specified goods are to be sold; and
- (c) is subject to the conditions specified in, or annexed to, the permit, being the conditions determined by the Trust to be the conditions subject to which permits are to be granted.

Office of Trust.

30. The Trust shall maintain, within the Canberra Retail Market, an office for the transaction of its business including the receipt of applications for the grant of licences and permits and the grant of licences and permits.

Conditions to be exhibited at office and in each stall.

31. The Trust shall cause to be exhibited at the office of the Trust and in each stall a copy of the conditions determined by it to be the conditions subject to which licences are to be granted.

PART VI.—MISCELLANEOUS.

Stall to be reserved for sale of goods by charitable organization.

32.—(1.) The Trust shall reserve one stall at the Canberra Retail Market for the sale of goods by a charitable organization.

(2.) The stall so reserved shall be allotted, without charge, by the Trust to charitable organizations in rotation each week according to the order in which applications are received by the Trust.

(3.) In this section, “charitable organization” means an association, society, institution or body carried on for a religious, educational, benevolent or charitable purpose other than an association, society, institution or body carried on for the purpose of securing pecuniary benefit to its members.

Offences by licensees.

33.—(1.) A licensee shall not, in the Canberra Retail Market—

- (a) sell any goods other than goods that he is authorized by his licence to sell; or
- (b) sell any goods except from the stall from which he is authorized by his licence to sell goods.

Penalty: Two hundred dollars.

(2.) A licensee shall not contravene or fail to comply with a condition determined by the Trust to be a condition to which the licence is subject.

Penalty: Two hundred dollars.

(3.) It is a defence to a prosecution for an offence against the last preceding sub-section if the defendant proves that, throughout the period that commenced on the first day on which the licence authorized him to sell the goods and ended at the time at which the offence was alleged to have been committed, a copy of the conditions to which the licence was subject was not exhibited in the stall specified in the licence.

34.—(1.) The holder of a permit shall not, in the Canberra Retail Market—

Offences by holders of permits.

- (a) provide any services other than those that he is authorized by his permit to provide;
- (b) provide specified services except by the means by which he is authorized by his permit to provide those services;
- (c) sell any goods other than goods that he is authorized by his permit to sell; or
- (d) sell any goods except at the place at which he is authorized by his permit to sell those goods.

Penalty: Two hundred dollars.

(2.) The holder of a permit shall not contravene or fail to comply with a condition specified in, or annexed to the permit.

Penalty: One hundred dollars.

35. A person other than a licensee or the holder of a permit shall not sell any goods in the Canberra Retail Market.

Selling of goods by persons other than licensees or holders of permits.

Penalty: Two hundred dollars.

36.—(1.) Notwithstanding anything contained in the *Hawkers Ordinance* 1936-1968 or in a licence issued under that Ordinance, a person to whom a licence under that Ordinance is granted shall not, in the course of carrying on his business as a licensed hawker, sell prescribed goods, or leave standing a vehicle on which prescribed goods are being carried for sale, within the area surrounding the Canberra Retail Market.

Provisions applicable to hawkers.

Penalty: Two hundred dollars.

(2.) For the purposes of the last preceding sub-section, "the area surrounding the Canberra Retail Market" means the area of land marked by cross-hachuring on the plan in the Second Schedule to this Ordinance.

37. Notwithstanding that—

- (a) the Trust has the right to occupy and use the Canberra Retail Market under sub-section (1.) of section 18 of this Ordinance; or
- (b) the land comprising block 1, section 7, Division of Fyshwick, Canberra City District, becomes the land comprised in a lease granted by the Commonwealth to the Trust,

Application of Motor Traffic Ordinance.

the *Motor Traffic Ordinance* 1936-1971 (other than sub-section (6.) of section 109 of that Ordinance) applies—

- (c) to and in relation to each carriageway in the Canberra Retail Market that is available for use by the public, by licensees and by holders of permits as if the carriageway were a public street within the meaning of that Ordinance; and
- (d) to and in relation to—
 - (i) an area of land within the Canberra Retail Market that is available for use by the public for the parking of motor vehicles; and
 - (ii) the entrances to, and the exits from, such an area, as if it were an off-street parking area and a public place within the meaning of that Ordinance.

Regulations.

38. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters that by this Ordinance are required or permitted to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

THE SCHEDULES

FIRST SCHEDULE

Section 4.

PRESCRIBED GOODS

Fruit	Goods of a kind normally sold in a delicatessen
Vegetables	Dried fruits
Groceries	Live fish
Bread	Pet foods and accessories
Eggs	Medicines for use by animals
Poultry	Sheep skins
Honey	Plants, trees, shrubs, seedlings and lawn seed
Fresh fruit juices	Fertilizers
Tinned fruit juices	Goods for use in gardens
Pre-packed meat	Hay and grain
Frozen meat	Cut flowers

SECOND SCHEDULE

Section 36.

AREA SURROUNDING THE CANBERRA RETAIL MARKET

