

# Local Government (Newcastle Fruit and Vegetable Market) Act 1972 No 7

[1972-7]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Local Government (Newcastle Fruit and Vegetable Market) Act 1972 No 7



New South Wales

An Act to constitute a Newcastle Fruit and Vegetable Marketing District; to control the wholesale marketing of fruit and vegetables in public markets within the marketing district so constituted; and for purposes connected therewith.

## 1 Name of Act and construction

- (1) This Act may be cited as the *Local Government (Newcastle Fruit and Vegetable Market) Act 1972*.
- (2) The *Local Government Act 1919* is in this Act referred to as the Principal Act.
- (3) This Act shall be read and construed with the Principal Act.

## 2 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**appointed day** means the day on and from which the Newcastle marketing district is constituted under section three of this Act.

**Council** means the Council of the City of Newcastle.

**exempt fruit and vegetables** means fruit and vegetables exempted from the provisions of this Act by ordinance.

**Newcastle marketing district** means the Newcastle Fruit and Vegetable Marketing District constituted under section three of this Act.

**new market** means, where the Council provides a public market as referred to in section four of this Act, that market.

**prescribed period** means the period of ten years that next succeeds the appointed day.

**wholesaler** means a person entitled, immediately before the appointed day, to occupy accommodation in the public market situated at Steel Street and King Street, Newcastle

for the purpose of carrying on (whether on behalf of producers or other persons or on his own behalf) the business of selling fruit and vegetables by wholesale and includes a person on whom the right to occupy the accommodation made available to that wholesaler for carrying on that business in the new market devolves by agreement or by operation of law.

### **3 Constitution of Newcastle marketing district**

The Governor may, by proclamation published in the Gazette, constitute on and from a day specified in the proclamation a Newcastle Fruit and Vegetable Marketing District comprising the areas of the City of Newcastle, the Shire of Lake Macquarie and the Shire of Port Stephens.

### **4 No other wholesale market permitted within Newcastle marketing district**

- (1) Where, on and after the appointed day, the Council provides within its area a public market for the sale by wholesale of fruit and vegetables, the power conferred by subsection one of section four hundred and fifty-four of the Principal Act upon any council the area of which is within the Newcastle marketing district is suspended for the period of twenty-five years that next succeeds the appointed day in so far as it authorises such a council to provide, manage and control within that district any other public market for the sale by wholesale of fruit and vegetables other than exempt fruit and vegetables.
- (2) No person shall, during the period of twenty-five years that next succeeds the appointed day:
  - (a) establish any public market within the Newcastle marketing district for the purpose of selling by wholesale fruit and vegetables other than exempt fruit and vegetables, or
  - (b) expand any public market used for that purpose immediately before that day within the areas that, on and after that day, comprise that district.

Penalty: Five hundred dollars and for each day upon which the offence continues, one hundred dollars.

- (3) Without prejudice to the operation of subsection one of this section, subsection two of this section does not apply to or in respect of a council referred to in subsection one of this section.

### **5 Only wholesalers to sell in new market**

Except as provided in subsection two of section six of this Act, the power of the Council to sell or permit a person to sell fruit and vegetables in a public market provided by it does not, during the prescribed period, extend to permitting a person other than a wholesaler to sell by wholesale in the new market any fruit and vegetables other than exempt fruit

and vegetables.

## **6 Council to provide accommodation in the new market**

(1) Subject to subsection two of this section, upon application by a wholesaler before the day that is three months after the appointed day, the Council shall, under the Principal Act, make available within the new market for the use by that wholesaler, during the prescribed period, accommodation:

- (a) equivalent in area to the area that, immediately before the appointed day, was occupied by the wholesaler in the market situated at Steel Street and King Street, Newcastle, or
- (b) where the wholesaler and the Council agree, larger or smaller in area than the area so occupied.

(2) If:

(a) within three months after:

- (i) the appointed day, or
- (ii) the submission to him by the Council of an agreement for the use by him of accommodation in the new market,

whichever is the later, a wholesaler has not entered into an agreement with the Council for the use by him of accommodation in the new market, or

- (b) an agreement between a wholesaler and the Council relating to the use by that wholesaler of accommodation in the new market is terminated for any reason and a new agreement with the wholesaler does not thereupon take effect,

the Council may exercise in respect of that accommodation all the powers conferred upon it by Part 20 of the Principal Act.

## **7 Application of Principal Act**

Except to the extent that this Act otherwise expressly provides, the Principal Act applies to and in respect of the new market and so applies as if the area of the council included the Newcastle marketing district.

## **8 Council to prosecute for offences**

A prosecution for an offence against this Act or any ordinance made under the Principal Act pursuant to a power conferred by this Act may be taken only by the Council or such servant of the Council as the Council may appoint either generally or in respect of any particular proceeding.

## **9 Ordinances**

Without prejudice to the powers conferred by section four hundred and fifty-nine of the Principal Act as applied to and in respect of the new market by section seven of this Act, ordinances may be made under the Principal Act for carrying this Act into effect and in particular for or with respect to:

- (a) the exemption of any fruit and vegetables from the operation of this Act,
- (b) the days upon and times during which the new market shall be open,
- (c) the regulation of the presence, use and movement on or in the new market of vehicles of every class or description, and animals,
- (d) the regulation of the conduct of persons using or resorting to the new market,
- (e) the regulation of the method of selling in the new market,
- (f) the prevention and suppression of nuisances and the enforcement of cleanliness in and in connection with the new market and the provision for and regulation of the storage, removal, treatment and disposal of garbage and waste therein or therefrom.