

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 4 April, 1968, A.M.*

## New South Wales



ANNO SEPTIMO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. , 1968.**

An Act to provide for the constitution of the Sydney Farm Produce Market Authority and to define its powers, authorities, duties and functions; to provide for the transfer to the service of the Authority of certain servants of the Council of the City of Sydney; to vest certain property in the Authority; and for purposes connected therewith.

*Sydney Farm Produce Market Authority.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same. as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Sydney Farm Produce Market Authority Act, 1968". Short title and commencement.

10 (2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation.

2. This Act is divided into Parts, as follows :—

Division into Parts.

PART I.—PRELIMINARY—*ss.* 1–3.

15 PART II.—CONSTITUTION OF THE AUTHORITY—*ss.* 4–10.

PART III.—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—*ss.* 11–15.

20 PART IV.—CONSTITUTION OF COMMITTEES—*ss.* 16–22.

DIVISION 1.—*Constitution and functions of Staff Joint Committee—ss.* 16–18.

DIVISION 2.—*Constitution and functions of Finance Joint Committee—ss.* 19–22.

25 PART V.—FINANCE—*ss.* 23–33.

PART VI.—GENERAL—*ss.* 34–45.

3. In this Act, except in so far as the context or subject matter otherwise indicates or requires,— Interpretation.

30 "Authority" means the Sydney Farm Produce Market Authority constituted by and under this Act;

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- “City Markets” means the public markets established and maintained by the Council of the City of Sydney at Haymarket, Sydney, for the sale of fruit, vegetables and other commodities;
- 5 “council” has the meaning ascribed thereto in the Local Government Act, 1919, as subsequently amended;
- “farm produce” means vegetables, potatoes and other edible roots and tubers, fruit, eggs, poultry, honey and such other commodities as the Governor may, by regulation, declare to be farm produce;
- 10 “land” includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land;
- “member” means member of the Authority;
- 15 “prescribed” means prescribed by this Act or by the regulations;
- “proclamation” means a proclamation of the Governor published in the Gazette;
- 20 “public market” means public market provided, maintained, controlled and managed by the Authority and the City Markets or parts thereof maintained, controlled and managed by the Authority;
- “regulations” means regulations made under this Act;
- 25 “wholesaler” means a person who sells by wholesale any farm produce—
- (a) on behalf of producers or other persons whether on commission or for or in expectation of any fee, gain or reward or otherwise; or
- 30 (b) on his own behalf;
- whether such sale is by auction or otherwise.

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PART

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*Sydney Farm Produce Market Authority.*

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PART II.

CONSTITUTION OF THE AUTHORITY.

4. (1) (a) There shall be a Sydney Farm Produce Market Authority which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

Constitution  
of Authority

In the exercise and discharge of such powers, authorities, duties and functions the Authority shall be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of nine members appointed by the Governor. Of the members so appointed—

- (i) one shall be nominated by the Minister;
- (ii) one shall be a person who is an officer within the meaning ascribed to that term by the Local Government Act, 1919, as subsequently amended, and shall be nominated by the Minister for the time being administering that Act;
- (iii) one shall be an officer of the Treasury nominated by the Treasurer;
- (iv) one shall be an officer of a Government Department under the control of the Minister for Transport or of a statutory body representing the Crown under the control of that Minister and shall be nominated by that Minister;
- (v) five shall be nominated by the Minister after consideration of a panel of names submitted to him, in accordance with any request by him, by organisations representing producers of farm produce, wholesalers, consumers and other interests concerned.

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(d) The member appointed pursuant to subparagraph (i) of paragraph (c) of this subsection shall in and by the instrument by which he is appointed be the Chairman of the Authority and that member appointed pursuant to subparagraph (ii), (iii) or (iv) of paragraph (c) of this subsection as the Governor designates shall in and by the instrument by which he is appointed be the Deputy Chairman of the Authority.

(2) (a) A member shall, subject to this Act, be appointed for such term not exceeding five years as may be specified in the instrument of appointment and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

(ii) An appointment to fill a vacant office shall be made on the nomination of the person who nominates the member whose office has become vacant, and where the member whose office has become vacant held the qualification required by subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section the person appointed to the vacant office shall be a person holding the like qualification.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3) (a) During the illness or absence of the Chairman the Deputy Chairman shall have the immunities, powers, authorities and duties (other than that referred to in paragraph (a) of subsection four of this section) of the Chairman.

(b) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman; and all acts or things done or omitted by the Deputy

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Deputy Chairman while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(4) (a) The Chairman shall devote the whole of his 5 time to the duties of his office.

(b) The Chairman shall receive such annual salary and allowances as the Governor may from time to time determine.

Each member other than the Chairman shall receive such 10 remuneration and allowances as the Governor may from time to time determine.

The Deputy Chairman whilst acting as Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

15 (c) Where any member not being the Chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under 20 any Act, be entitled to receive remuneration and allowances under this section in addition to any remuneration and allowances to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or 25 prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the Chairman).

(e) The office of a member (other than the 30 Chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

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(5) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member and any member so appointed shall not, in his capacity as such member, be  
5 subject to the provisions of that Act, as so amended, during his term of office.

(6) A member shall be deemed to have vacated his office—

- 10 (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- 15 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- 20 (d) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 25 (e) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or  
30 unless he is before the expiration of four weeks after the last of such meetings excused by the Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;

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- 5 (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- 10 (i) if he is removed from office by the Governor;
- (j) if he ceases to hold the qualification by virtue of which he was appointed.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

- 15 (7) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(8) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in  
20 pursuance of subsection six (paragraph (h) excepted) or seven of this section shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

- 25 (9) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous  
30 thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(b)



*Sydney Farm Produce Market Authority.*

(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, as the case may be, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

In respect of a Chairman who contributes to a fund or account as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such Chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as Chairman.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Authority to be body corporate—proceedings of Authority.

(2) The corporate name of the Authority shall be the "Sydney Farm Produce Market Authority".

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*Sydney Farm Produce Market Authority.*

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(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

10 (b) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the member chosen by the members present at the meeting to act as Chairman shall preside at any meeting of the Authority.

15 (c) Six members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

20 (d) The Chairman or Deputy Chairman or member acting as Chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

(5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

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*Sydney Farm Produce Market Authority.*

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(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising.

6. (1) The Authority shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

20 (3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

25 7. The regulations may make provision—  
Regulations re servants.

(a) for and in relation to the control and governance of servants by the Authority; and

(b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

8.

*Sydney Farm Produce Market Authority.*

8. The Crown Employees Appeal Board Act, 1944, as subsequently amended, is amended by inserting at the end of the Second Schedule the words "The Sydney Farm Produce Market Authority".
- 5 9. (1) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, 10 make use of the services of any of the officers or employees of any Government Department.
- (2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the 15 services of any of the officers, servants or employees of such statutory body or council.
10. (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies 20 before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such 25 servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.
- 30 (2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

Amendment  
of Act No.  
15, 1944.  
Second  
Schedule.

Authority  
may make  
use of  
certain  
employees  
of the  
Crown,  
statutory  
bodies and  
councils.

Payments  
in respect  
of long  
service  
leave on  
death of  
servant.

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*Sydney Farm Produce Market Authority.*

(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

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PART III.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY.

11. (1) Subject to this Act, the Authority may within the County of Cumberland provide, maintain, control and manage public markets for the sale or disposal of farm produce and in, upon or in connection with such public markets exercise any powers, authorities, duties or functions conferred or imposed upon it by this Act.

Powers, authorities, duties, and functions of the Authority.

Upon the City Markets or any part thereof becoming vested in the Authority, the Authority shall maintain, control and manage the City Markets or part thereof as a place for the sale or disposal of farm produce and any other commodities which were sold or disposed of at the City Markets or part thereof immediately prior to the vesting thereof in the Authority.

Such maintenance, control and management shall cease upon a day to be appointed by the Governor and notified by proclamation, such day being not earlier than the establishment or provision by the Authority of public markets in substitution of the City Markets or part thereof vested in the Authority and adequate in the opinion of the Minister for the sale or disposal of farm produce.

(2)

*Sydney Farm Produce Market Authority.*

(2) For the purposes of and subject to this Act the Authority is hereby empowered and authorised—

- 5 (a) to exercise the powers and authorities conferred by Part XX of the Local Government Act, 1919, as subsequently amended, upon a council in respect of any public market provided, controlled or managed by the council;
- 10 (b) to acquire land, machinery (including refrigerating machinery and machinery suitable for the ripening of farm produce), plant, goods, chattels and effects;
- 15 (c) to erect, maintain, repair, operate, regulate, use and regulate the use of buildings (including buildings for cold storage and the inspection, sorting and ripening of farm produce) and all machinery and plant used in connection therewith;
- (d) in, upon or in connection with a public market—
  - 20 (i) to construct or arrange for the construction of railway sidings and all necessary appurtenances thereto;
  - (ii) to make, maintain and repair or contribute in aid of the construction, maintenance and repair of roads, market ways, drains and convenient approaches;
- 25 (e) to grant to wholesalers, merchants, producers of farm produce and to other persons a right to use and occupy for the sale and disposal of farm produce or for any other purpose approved by the Authority any portion or portions of a public market; to grant any such right by means of lease, license or permit upon such terms and conditions as may be agreed upon between such persons and the Authority and by or in connection with any such lease, license or permit to charge such rentals, fees, dues or amounts, not exceeding the maximum, if any, prescribed therefor, as may be determined from time to time by the Authority;
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*Sydney Farm Produce Market Authority.*

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- (f) to charge a fee whenever the Authority—
- (i) supplies any service, product or commodity;
  - (ii) grants any lease, license or permit;
  - 5 (iii) gives any permission or prepares and issues any document authorising the holder to have access to a public market or to any buildings, improvements or facilities established therein or in connection therewith;
- 10 (g) to sell any farm produce for the owners, agents or consignors thereof in accordance with any arrangement relating to commission or reward which the Authority may make with such owners, agents or consignors;
- 15 (h) to support with or without grant of financial aid and whether or not initiated by the Authority any scheme or activity which in the opinion of the Authority is capable of assisting in the promotion of the sale in any public market of farm produce;
- 20 (i) to provide within or adjacent to a public market shops, stalls or areas for the sale or disposal of commodities other than farm produce or the rendering or performance of services to the public; and
- 25 (j) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, authorities, duties and functions.

12. (1) The Authority may establish committees for the purpose of advising the Authority upon such matters within the scope of the Authority's powers, authorities, duties and 30 functions as may be referred to the committees by the Authority.

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*Sydney Farm Produce Market Authority.*

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(2) (a) A person may be appointed to any such committee whether or not he is a member of the Authority.

(b) The office of a member of any such committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the committee and such allowances and travelling expenses as the Governor may from time to time determine.

Where any member of any such committee is an officer of the Public Service or of a statutory body representing the Crown, he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees, allowances and travelling expenses under this section in addition to any remuneration to which he is otherwise entitled.

**13.** The power to acquire land conferred on the Authority by section eleven of this Act shall extend to the acquisition of land whether or not previously appropriated or resumed for any purpose and, in the exercise of that power, the Authority may acquire land by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part.

**14.** (1) For the purposes of this Act the Governor may under the Public Works Act, 1912, as subsequently amended, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty.

(2) (a) The construction, provision and establishment of a public market and the carrying out of any works for any purpose referred to in section eleven of this Act shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as subsequently amended.

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*Sydney Farm Produce Market Authority.*

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(b) The Authority is empowered to carry out the said work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all necessary steps for  
5 the proper execution thereof as the Authority thinks proper.

(c) The provisions of the Public Works Act, 1912, as subsequently amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

10 (3) Without prejudice to the generality of subsection two of this section, the provisions of section thirty-eight of the Public Works Act, 1912, as subsequently amended, shall apply to and in respect of any contracts referred to in paragraph (b) of subsection two of this section.

15 **15.** (1) Notwithstanding the provisions of any other Act but subject to the provisions of this section, as on and from  
the expiration of six months after the date of publication in the Gazette of a proclamation notifying the appointment of the first members of the Authority no person other than the  
20 Authority shall use or permit the use of land or premises situated within the County of Cumberland as and for the purposes of a public market without the written permission of the Authority unless such land or premises was used for such purposes prior to the date of publication in the Gazette  
25 of the aforesaid proclamation.

Control  
over use  
of land for  
purposes  
of public  
market.

(2) Any application for written permission of the Authority to use any land or premises within the County of Cumberland for the purposes of a public market shall be made to the Authority in writing by the owner or occupier of  
30 the land or premises and shall supply all such particulars as are prescribed. If an application is made before such particulars have been prescribed, the application shall supply the particulars required by the Authority.

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*Sydney Farm Produce Market Authority.*

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(3) The Authority may approve of the application subject to conditions or disapprove thereof as it may deem proper in the circumstances of the case.

(4) Matters to be considered by the Authority in dealing with any such application shall include the following :—

- 10 (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued, by or under any Act and, if such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under the town and country planning scheme, planning scheme or interim development order concerned;
- 15 (b) the suitability of the applicant and the merits of his application;
- 20 (c) the size, location and accessibility of the proposed site and its suitability for use as a public market;
- (d) the public interest, the distance of such site from the nearest public market and the question as to whether there is any need for a public market at the proposed location;
- 25 (e) the marketing and economic implications of the proposal;
- (f) the trends and any indications of change in the development and operation of the terminal marketing of farm produce in the County of Cumberland;
- 30 (g) the possibility or likelihood of the proposed public market being or becoming prejudicial to the effective exercise, performance or discharge by the Authority of the powers, authorities, duties and functions conferred or imposed upon it by this Act;
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(h)

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*Sydney Farm Produce Market Authority.*

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- (h) the interests of producers of farm produce likely to be sold at the proposed public market;
- (i) the interests of persons likely to become sellers of farm produce at such market; and
- 5 (j) any other matters prescribed for consideration by the Authority for the purposes of this section.

(5) The Authority shall not approve or approve subject to conditions any application submitted to it under this section unless use of the land in question for the purposes  
10 of a public market conforms with the requirements of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act and any approval of any kind given by the Authority in contravention of this subsection shall have no  
15 force or effect.

(6) Any person who contravenes any provision of this section or fails to comply with any condition attached to any approval given under this section shall be guilty of an offence against this Act and shall be liable upon summary  
20 conviction to a penalty not exceeding four hundred dollars and to a daily penalty for any continuing breach thereof not exceeding eighty dollars per day.

(7) In this section—  
25 “public market” means any place where a number of wholesalers, merchants, auctioneers or other persons congregate for the purpose of selling or disposing of farm produce to the public.

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*Sydney Farm Produce Market Authority.*

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PART IV.

CONSTITUTION OF COMMITTEES.

DIVISION 1.—*Constitution and functions of Staff Joint Committee.*

5 **16.** (1) There shall be constituted a joint committee, which shall be called the Staff Joint Committee, and which shall consist of five members as follows :—

- 10 (a) the Director General of the Department of Agriculture or his nominee who shall convene all meetings of the Staff Joint Committee and shall be chairman of the meetings;
- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- 15 (d) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee; and
- 20 (e) the General Secretary of The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division, or, in the absence through sickness or other good cause of the General Secretary, his nominee.

(2) Three members of the Staff Joint Committee, one of whom shall be the Chairman, shall form a quorum.

25 (3) Where the voting on any question at a meeting of the Staff Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

*Sydney Farm Produce Market Authority.*

17. (1) As soon as practicable after it is constituted the Staff Joint Committee shall make determinations as to which of the servants of the Council of the City of Sydney who are wholly or principally employed by the Council at or in connection with the City Markets and with the exercise and discharge of the powers and functions of the Council in relation to such markets undertaking should be transferred to the Authority.

Functions  
of the  
Staff Joint  
Committee.

(2) When the Staff Joint Committee has made its determination it shall submit its report and recommendations to the Minister.

18. (1) Determinations made by the Staff Joint Committee pursuant to section seventeen of this Act shall be embodied in a proclamation.

Transfer  
of staff.

(2) A servant of the Council of the City of Sydney referred to in a proclamation made pursuant to subsection one of this section shall, on and from a day to be appointed (hereinafter referred to as the "appointed day") by proclamation, be transferred to the service of the Authority.

Upon transfer any such servant shall—

- (a) become a servant of the Authority; and
- (b) be paid salary or wages not less than at the rate at which he was employed immediately before the appointed day, until that salary or those wages is or are varied or altered by the Authority :

Provided that such salary or wages shall not be reduced for a period of at least two years from the date of his transfer except to the extent necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed.

(3)

*Sydney Farm Produce Market Authority.*

(3) A person so transferred shall on and from the appointed day and until otherwise directed by the Authority continue to perform the duties which attached to his employment before that day.

5 (4) Subject to subsection five of this section the provisions of subsections two to seven inclusive of section 20c of the Local Government Act, 1919, as subsequently amended, shall, mutatis mutandis, apply to and in respect of a servant transferred pursuant to this section.

10 For the purposes of such application a reference to "the council of such new or other area" shall be read and construed as a reference to "the Authority".

(5) (a) This subsection applies to and in respect of persons transferred from the service of the Council pursuant  
15 to this section, being persons referred to in paragraph (a) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, who, pursuant to paragraph (b) of that subsection, elected to retain the rights and privileges referred to in that paragraph.

20 (b) Any person to whom this subsection applies, and who becomes entitled to receive a gratuity by virtue of the application of subsection five of section 20c of the Local Government Act, 1919, as subsequently amended,  
25 shall not be entitled to receive any compassionate or retiring allowance under any award or industrial agreement referred to in subsection two of the said section 20c :

Provided that the amount payable to any such person as a gratuity to which he becomes entitled as aforesaid shall not in  
30 any case be less than the amount which would have been payable to such person as a compassionate or retiring allowance under any such award or industrial agreement if this paragraph had not been enacted.

(c) For the purposes of paragraph (b) of subsection two of section twelve of the Local Government  
35 (Areas) Act, 1948, as subsequently amended, the services of  
any

*Sydney Farm Produce Market Authority.*

any person to whom this subsection applies with the Authority to which he is transferred pursuant to this section shall be deemed to be service with the Council of the City of Sydney.

(6) A servant of the Council who at the time of the  
5 constitution of the Authority is engaged on service—

(a) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth of Australia, or

10 (b) as an officer in that force in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

shall for the purposes of this section be deemed to be still in the employ of the Council and such service as well as service with the Council shall be counted as service with the  
15 Authority upon transfer thereto.

*DIVISION 2.—Constitution and functions of Finance Joint Committee.*

19. In this Division of this Part except in so far as the Definition. context or subject matter otherwise indicates or requires—

20 “assets” include land, structures, improvements, plant, equipment and other works of the Council of the City of Sydney situated or installed at the City Markets or used by the Council in connection therewith.

25 20. (1) There shall be constituted a joint committee, Finance Joint Committee —constitution and functions. which shall be called the Finance Joint Committee, and which shall consist of five members as follows—

30 (a) the Auditor-General or his nominee, who shall convene all meetings of the Finance Joint Committee and shall be chairman of the meetings;

(b)

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*Sydney Farm Produce Market Authority.*

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- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- 5 (d) the Director General of the Department of Agriculture, or his nominee; and
- (e) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee.

(2) Three members of the Finance Joint Committee, 10 one of whom shall be the chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Finance Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

15 (4) The functions of the Finance Joint Committee shall be—

- 20 (a) to determine (by apportionment or otherwise) what assets and rights, and what debts and liabilities of the Council are to be transferred to and become assets, rights, debts and liabilities of the Authority;
- 25 (b) to determine whether the expense of meeting payments on account of leave or upon retirement or termination of employment or death of a servant transferred from the service of the Council to the service of the Authority pursuant to this Act should be apportioned between the Council and the Authority and, if so, how the apportionment should be made;
- 30 (c) to determine what books, documents, records and papers of the Council are to be handed over to the Authority; and
- (d) such other matters as the Finance Joint Committee may consider necessary or expedient in relation to the foregoing.

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(5) Without limiting the generality of subsection four of this section, where the Finance Joint Committee considers that any asset or right or any debt or liability should be wholly or partly transferred to the Authority, the Committee may, instead of determining that the asset or right or the debt or liability be so transferred, determine that a payment shall be made in respect of that asset, right, debt or liability to or by the Authority or to or by the Council, as the case may be.

10 (6) The Finance Joint Committee may make separate determinations, either before or after the appointed day referred to in subsection two of section eighteen of this Act in respect of all or any of the matters referred to in subsections four and five of this section and shall submit its  
15 report and recommendations on any such determination to the Minister.

**21.** (1) Recommendations made by the Finance Joint Committee pursuant to section twenty of this Act shall be embodied in a proclamation or proclamations which may be made at any time either before or after the appointed day referred to in subsection two of section eighteen of this Act. Recommendations of Finance Joint Committee to be embodied in proclamations.

(2) A proclamation made under subsection one of this section shall take effect—

25 (a) where it is made on or before the said appointed day—on that day; and

(b) where it is made after the said appointed day—on the day on which it is made,

or on a later day specified in the proclamation.

(3) A proclamation made under subsection one of  
30 this section shall—

(a) where it is expressed to transfer any asset or right or any debt or liability wholly or partly to the Authority or to transfer any books, documents,

records

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*Sydney Farm Produce Market Authority.*

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- 5 records or papers to the Authority, operate to vest in the Authority that asset or right, or that debt or liability, to the extent therein expressed or to vest in the Authority those books, documents, records or papers;
- (b) where it specifies an amount determined to be paid to the Authority by reason of an apportionment referred to in paragraph (b) of subsection four of section twenty of this Act, operate to create a debt of that amount payable by the Council to the Authority;
- (c) where it embodies a determination made under paragraph (d) of the said subsection four operate and have effect according to its tenor; or
- 15 (d) where it specifies an amount to be paid to or by the Authority by reason of a determination made under subsection five of section twenty of this Act, operate to create a debt of that amount payable to or by the Authority or to or by the Council, as the case may be.
- 20

(4) Without limiting the generality of subsection three of this section, the following provisions shall, by virtue of this Act, apply in respect of any asset, right, debt or liability vested by a proclamation made under that subsection 25 in the Authority—

- (a) moneys, or liquidated and unliquidated claims which were payable to or recoverable by the Council shall be moneys, liquidated or unliquidated claims payable to or recoverable by the Authority;
- 30 (b) all suits, actions and proceedings pending immediately before the vesting shall be suits, actions and proceedings pending at the suit of the Authority;
- (c) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Council and in force immediately before the
- 35 vesting

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vesting shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority;

- 5 (d) the Authority may pursue the same remedies for the recovery of any moneys and claims and for the prosecution of any such suits, actions and proceedings as the Council might have done immediately before the day of such vesting;
- 10 (e) the Authority may enforce and realise any security or charge existing immediately before the day of vesting in favour of the Council in respect of any such moneys and claims as if the security or charge were existing in favour of the Authority;
- 15 (f) all debts due and moneys payable by the Council and all claims liquidated or unliquidated recoverable against the Council immediately before such vesting shall be debts due and moneys payable by and claims recoverable against the Authority; and
- 20 (g) no attornment by a lessee of any land vested in the Authority by virtue of a proclamation made under this section shall be necessary.

22. (1) Where the Minister is satisfied that the Finance Joint Committee has substantially exercised and performed its functions and powers he may notify the Finance Joint Committee that the functions of the Finance Joint Committee shall cease and determine and the Minister may thereafter exercise or perform, in respect of any assets, rights, debts or liabilities that have not been the subject of a determination made by the Finance Joint Committee under subsection four or five of section twenty of this Act, the functions and powers of the Finance Joint Committee.

- 35 (2) A reference in this Act to the Finance Joint Committee includes, where the Minister exercises or performs any function or power of the Finance Joint Committee pursuant to subsection one of this section, a reference to the Minister.

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PART

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*Sydney Farm Produce Market Authority.*

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PART V.

FINANCE.

23. (1) The Authority shall cause to be kept proper Accounts to be kept by the Authority. books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

10 (2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

24. (1) The accounts of the Authority shall be audited Audit of accounts. by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereinafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, as subsequently amended, shall apply to the Chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- 25 (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- 30 (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and

(b)

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*Sydney Farm Produce Market Authority.*

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(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25 **25.** The Authority may invest moneys held in government securities of the Commonwealth of Australia or of the State of New South Wales, or in any securities guaranteed by the Government of the said State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed. Investment of funds.

15 **26.** (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor. Temporary accommodation.

20 (2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

25 **27.** The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor borrow money for— Purposes for which money may be borrowed.

(a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;

(b) the renewal of loans;

(c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;

30 or

(d) any other purpose of this Act.

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28. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority. Reserves for repayment.
- (2) The Authority shall during each year transfer 5 to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.
- (3) (a) Moneys held as reserve for loan repay- 10 ment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of the said State, or in such 15 other securities as the Governor may approve or as may be prescribed, in each case at their current market price.
- (b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were 20 made.
- (c) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose 25 until the loan or renewal loan in respect of which the fund has been established has been repaid.
- (4) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for 30 which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of  
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*Sydney Farm Produce Market Authority.*

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four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, such balance shall form part of the funds of the Authority.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(7) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

**29.** (1) For securing repayment of the principal and interest on any moneys borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. <sup>Debentures, etc.</sup>

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as subsequently amended, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the

interest

*Sydney Farm Produce Market Authority.*

interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

5 (6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

10 (b) Any liability arising from such guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of  
15 the charge.

30. (1) Any trustee unless expressly forbidden by the Trustees. instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised  
20 by the Trustee Act, 1925, as subsequently amended.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other  
25 investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued  
30 or stock inscribed by the Authority.

31. (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue  
a new debenture or bond in lieu thereof. <sup>Lost debentures.</sup>

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(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

5 (3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

10 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;

(b) such advertisement as the judge may direct has been published;

15 (c) six months have elapsed since the publication of the last of the advertisements; and

20 (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

25 (5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

30 **32.** (1) A person advancing money to the Authority shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication. <sup>Protection of investments.</sup>

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*Sydney Farm Produce Market Authority.*

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(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

33. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank pari passu.

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**PART VI.**

**GENERAL.**

34. (1) Where under the provisions of this Act or any regulation the Authority—

Fixing of fees and charges.

- 15 (a) supplies any service, product or commodity ;  
(b) gives any permission ;  
(c) prepares and issues any document ;  
(d) furnishes any information ;  
(e) makes any registration ; or  
20 (f) receives any application for its approval,

the charge or fee therefor may be fixed by regulations or where there is no charge or fee so fixed, then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

25 (2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

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*Sydney Farm Produce Market Authority.*

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(3) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, document or information is supplied, given, made or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

**35.** (1) The Governor may make regulations, not Regulations, inconsistent with this Act, for and with respect to—

- 10 (a) any of the powers conferred upon or duties imposed upon the Minister or the Authority;
- (b) regulating the use, letting and occupation of any public market;
- (c) regulating the conduct of persons using or resorting to any public market;
- 15 (d) regulating the presence, use and movement on or in any public market of vehicles of every class or description, and animals;
- (e) regulating the method of selling in any public market;
- 20 (f) preventing and suppressing nuisances and enforcing cleanliness in and in connection with any public market and providing for and regulating the storage, removal, treatment and disposal of garbage, offal and waste therein or therefrom;
- 25 (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 30 (h) fixing any penalties not exceeding one hundred dollars or, in the case of a continuing offence, not exceeding ten dollars per day, for non-compliance with any regulation.

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(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- 5 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

10 (3) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

15 **36.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal of the Authority.

- (a) shall take judicial notice of the seal of the Authority affixed to any document; and
- 20 (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

**37.** Where in any Act other than this Act or in any ordinance, regulation, by-law, proclamation or in any instrument or document relating to or associated with the City Markets and the exercise and discharge by the Council of the City of Sydney of its powers, authorities, duties and functions with respect to such Markets reference, either express or implied, is made to the Council of the City of Sydney or to the Municipal Council of Sydney, such reference shall, except where otherwise expressly provided by this Act, or in so far as the context or subject matter otherwise indicates or requires, be construed as a reference to the Authority.

References to Council of the City of Sydney in other Acts, ordinances, regulations, by-laws, etc.

**38.**

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38. Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post. Service of notice of proceedings on the Authority.
- 5 39. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Chairman of the Authority. Documents—how authenticated.
- 10 40. (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalty.
- (2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.
- 15 41. (1) Any charge, fee, remuneration or money due to the Authority under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction. Recovery of charges, etc.
- 20 (2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—
- 25 (a) section twenty-four of the Common Law Procedure Act, 1899, as subsequently amended;
- (b) section sixty-four of the District Courts Act, 1912, as subsequently amended;
- (c) section twenty-five of the Small Debts Recovery Act, 1912, as subsequently amended.

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*Sydney Farm Produce Market Authority.*

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**42.** In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of— Proof of certain matters not required.

- (a) the constitution of the Authority;
- 5 (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority;
- 10 (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

**43.** (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in Delegation.  
15 the resolution—

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- 20 (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act;
- (d) to any other person approved by the Minister.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any Delegation.  
25 such delegation to him shall be deemed to be the Authority.

(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person  
under

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*Sydney Farm Produce Market Authority.*

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under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

5 (5) The Authority may by resolution revoke any such delegation.

44. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any 10 servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section. <sup>Notice of action.</sup>

15 (2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 20 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all 25 facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall 30 not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

Provided

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*Sydney Farm Produce Market Authority.*

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Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 5       (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

- 10       (5) Every such action shall be commenced within the period (in this subsection referred to as the "prescribed period") of twelve months next after the occurring of the cause of action :

Provided that where an application is made to a judge of  
15 the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed  
20 period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

- 25 Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules  
30 of court.

- (6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action,  
35 and in case the same is not accepted may plead the tender in bar.

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(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

45. (1) As soon as practicable after the thirtieth day of <sup>Annual</sup> 5 June in each year, the Authority shall prepare and furnish to <sup>report.</sup> the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid.

(2) The Minister shall lay such report or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968  
[35c]

1871

Journal of the Board of Directors

Resolved, That the Board of Directors do hereby authorize the President to execute such contracts as may be necessary for the carrying on of the business of the Corporation.

Resolved, That the Board of Directors do hereby authorize the President to execute such contracts as may be necessary for the carrying on of the business of the Corporation.

Resolved, That the Board of Directors do hereby authorize the President to execute such contracts as may be necessary for the carrying on of the business of the Corporation.

1871

123

No. , 1968.

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## A BILL

To provide for the constitution of the Sydney Farm Produce Market Authority and to define its powers, authorities, duties and functions; to provide for the transfer to the service of the Authority of certain servants of the Council of the City of Sydney; to vest certain property in the Authority; and for purposes connected therewith.

[MR CRAWFORD—27 March, 1968.]

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*Sydney Farm Produce Market Authority.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Sydney Farm Produce Market Authority Act, 1968".

Short title and commencement.

10 (2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation.

2. This Act is divided into Parts, as follows :—

Division into Parts.

PART I.—PRELIMINARY—*ss.* 1–3.

15 PART II.—CONSTITUTION OF THE AUTHORITY—*ss.* 4–10.

PART III.—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—*ss.* 11–15.

20 PART IV.—CONSTITUTION OF COMMITTEES—*ss.* 16–22.

DIVISION 1.—*Constitution and functions of Staff Joint Committee—ss.* 16–18.

DIVISION 2.—*Constitution and functions of Finance Joint Committee—ss.* 19–22.

25 PART V.—FINANCE—*ss.* 23–33.

PART VI.—GENERAL—*ss.* 34–45.

3. In this Act, except in so far as the context or subject matter otherwise indicates or requires,—

Interpretation.

30 "Authority" means the Sydney Farm Produce Market Authority constituted by and under this Act;

"City

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*Sydney Farm Produce Market Authority.*

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- “City Markets” means the public markets established and maintained by the Council of the City of Sydney at Haymarket, Sydney, for the sale of fruit, vegetables and other commodities;
- 5 “council” has the meaning ascribed thereto in the Local Government Act, 1919, as subsequently amended;
- “farm produce” means vegetables, potatoes and other edible roots and tubers, fruit, eggs, poultry, honey and such other commodities as the Governor may, by regulation, declare to be farm produce;
- 10 “land” includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land;
- “member” means member of the Authority;
- 15 “prescribed” means prescribed by this Act or by the regulations;
- “proclamation” means a proclamation of the Governor published in the Gazette;
- 20 “public market” means public market provided, maintained, controlled and managed by the Authority and the City Markets or parts thereof maintained, controlled and managed by the Authority;
- “regulations” means regulations made under this Act;
- 25 “wholesaler” means a person who sells by wholesale any farm produce—
- (a) on behalf of producers or other persons whether on commission or for or in expectation of any fee, gain or reward or otherwise; or
- 30 (b) on his own behalf;
- whether such sale is by auction or otherwise.

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PART

*Sydney Farm Produce Market Authority.*

PART II.

CONSTITUTION OF THE AUTHORITY.

4. (1) (a) There shall be a Sydney Farm Produce Market Authority which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

Constitution  
of Authority

In the exercise and discharge of such powers, authorities, duties and functions the Authority shall be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of nine members appointed by the Governor. Of the members so appointed—

- (i) one shall be nominated by the Minister;
- (ii) one shall be a person who is an officer within the meaning ascribed to that term by the Local Government Act, 1919, as subsequently amended, and shall be nominated by the Minister for the time being administering that Act;
- (iii) one shall be an officer of the Treasury nominated by the Treasurer;
- (iv) one shall be an officer of a Government Department under the control of the Minister for Transport or of a statutory body representing the Crown under the control of that Minister and shall be nominated by that Minister;
- (v) five shall be nominated by the Minister after consideration of a panel of names submitted to him, in accordance with any request by him, by organisations representing producers of farm produce, wholesalers, consumers and other interests concerned.

(d)

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*Sydney Farm Produce Market Authority.*

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(d) The member appointed pursuant to subparagraph (i) of paragraph (c) of this subsection shall in and by the instrument by which he is appointed be the Chairman of the Authority and that member appointed pursuant to sub-  
5 paragraph (ii), (iii) or (iv) of paragraph (c) of this subsection as the Governor designates shall in and by the instrument by which he is appointed be the Deputy Chairman of the Authority.

(2) (a) A member shall, subject to this Act, be  
10 appointed for such term not exceeding five years as may be specified in the instrument of appointment and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of  
15 reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

(ii) An appointment to fill a vacant office  
20 shall be made on the nomination of the person who nominates the member whose office has become vacant, and where the member whose office has become vacant held the qualification required by subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section the person appointed to the  
25 vacant office shall be a person holding the like qualification.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3) (a) During the illness or absence of the Chairman the Deputy Chairman shall have the immunities, powers,  
30 authorities and duties (other than that referred to in paragraph (a) of subsection four of this section) of the Chairman.

(b) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the  
35 Chairman; and all acts or things done or omitted by the  
Deputy

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*Sydney Farm Produce Market Authority.*

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Deputy Chairman while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(4) (a) The Chairman shall devote the whole of his 5 time to the duties of his office.

(b) The Chairman shall receive such annual salary and allowances as the Governor may from time to time determine.

Each member other than the Chairman shall receive such 10 remuneration and allowances as the Governor may from time to time determine.

The Deputy Chairman whilst acting as Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

15 (c) Where any member not being the Chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under 20 any Act, be entitled to receive remuneration and allowances under this section in addition to any remuneration and allowances to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or 25 prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the Chairman).

(e) The office of a member (other than the 30 Chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(5)



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*Sydney Farm Produce Market Authority.*

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(5) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member and any member so appointed shall not, in his capacity as such member, be  
5 subject to the provisions of that Act, as so amended, during his term of office.

(6) A member shall be deemed to have vacated his office—

- 10 (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- 15 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- 20 (d) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 25 (e) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is before the expiration of four weeks after the last of such meetings excused by the  
30 Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;

(g)

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*Sydney Farm Produce Market Authority.*

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- 5 (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- 10 (i) if he is removed from office by the Governor;
- (j) if he ceases to hold the qualification by virtue of which he was appointed.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

- 15 (7) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(8) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in  
20 pursuance of subsection six (paragraph (h) excepted) or seven of this section shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

25 (9) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous  
30 thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(b)

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*Sydney Farm Produce Market Authority.*

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(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, as the case may be, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

In respect of a Chairman who contributes to a fund or account as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such Chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as Chairman.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Authority  
to be body  
corporate—  
proceed-  
ings of  
Authority.

(2) The corporate name of the Authority shall be the "Sydney Farm Produce Market Authority".

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

10 (b) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the member chosen by the members present at the meeting to act as Chairman shall preside at any meeting of the Authority.

15 (c) Six members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

20 (d) The Chairman or Deputy Chairman or member acting as Chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

25 (5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such  
30 formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7)

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*Sydney Farm Produce Market Authority.*

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(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising.

6. (1) The Authority shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

(3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

7. The regulations may make provision—  
Regulations re servants.

(a) for and in relation to the control and governance of servants by the Authority; and

(b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

8.

*Sydney Farm Produce Market Authority.*

8. The Crown Employees Appeal Board Act, 1944, as subsequently amended, is amended by inserting at the end of the Second Schedule the words "The Sydney Farm Produce Market Authority".

Amendment  
of Act No.  
15, 1944.  
Second  
Schedule.

5 9. (1) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged,  
10 make use of the services of any of the officers or employees of any Government Department.

Authority  
may make  
use of  
certain  
employees  
of the  
Crown,  
statutory  
bodies and  
councils.

(2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the  
15 services of any of the officers, servants or employees of such statutory body or council.

10. (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies  
20 before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such  
25 servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.

Payments  
in respect  
of long  
service  
leave on  
death of  
servant.

30 (2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

(3)

*Sydney Farm Produce Market Authority.*

(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

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PART III.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY.

11. (1) Subject to this Act, the Authority may within the County of Cumberland provide, maintain, control and manage public markets for the sale or disposal of farm produce and in, upon or in connection with such public markets exercise any powers, authorities, duties or functions conferred or imposed upon it by this Act.

Powers, authorities, duties, and functions of the Authority.

Upon the City Markets or any part thereof becoming vested in the Authority, the Authority shall maintain, control and manage the City Markets or part thereof as a place for the sale or disposal of farm produce and any other commodities which were sold or disposed of at the City Markets or part thereof immediately prior to the vesting thereof in the Authority.

Such maintenance, control and management shall cease upon a day to be appointed by the Governor and notified by proclamation, such day being not earlier than the establishment or provision by the Authority of public markets in substitution of the City Markets or part thereof vested in the Authority and adequate in the opinion of the Minister for the sale or disposal of farm produce.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) For the purposes of and subject to this Act the Authority is hereby empowered and authorised—

- 5 (a) to exercise the powers and authorities conferred by Part XX of the Local Government Act, 1919, as subsequently amended, upon a council in respect of any public market provided, controlled or managed by the council;
- 10 (b) to acquire land, machinery (including refrigerating machinery and machinery suitable for the ripening of farm produce), plant, goods, chattels and effects;
- 15 (c) to erect, maintain, repair, operate, regulate, use and regulate the use of buildings (including buildings for cold storage and the inspection, sorting and ripening of farm produce) and all machinery and plant used in connection therewith;
- 20 (d) in, upon or in connection with a public market—  
(i) to construct or arrange for the construction of railway sidings and all necessary appurtenances thereto;
- (ii) to make, maintain and repair or contribute in aid of the construction, maintenance and repair of roads, market ways, drains and convenient approaches;
- 25 (e) to grant to wholesalers, merchants, producers of farm produce and to other persons a right to use and occupy for the sale and disposal of farm produce or for any other purpose approved by the Authority any portion or portions of a public market; to grant any such right by means of lease, license or permit upon such terms and conditions as may be agreed upon between such persons and the Authority and by or in connection with any such lease, license or permit to charge such rentals, fees, dues or amounts, not exceeding the maximum, if any, prescribed therefor, as may be determined from time to time by the Authority;

(f)



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*Sydney Farm Produce Market Authority.*

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- (f) to charge a fee whenever the Authority—
- (i) supplies any service, product or commodity;
  - (ii) grants any lease, license or permit;
  - 5 (iii) gives any permission or prepares and issues any document authorising the holder to have access to a public market or to any buildings, improvements or facilities established therein or in connection therewith;
- 10 (g) to sell any farm produce for the owners, agents or consignors thereof in accordance with any arrangement relating to commission or reward which the Authority may make with such owners, agents or consignors;
- 15 (h) to support with or without grant of financial aid and whether or not initiated by the Authority any scheme or activity which in the opinion of the Authority is capable of assisting in the promotion of the sale in any public market of farm produce;
- 20 (i) to provide within or adjacent to a public market shops, stalls or areas for the sale or disposal of commodities other than farm produce or the rendering or performance of services to the public; and
- 25 (j) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, authorities, duties and functions.

12. (1) The Authority may establish committees for the purpose of advising the Authority upon such matters within the scope of the Authority's powers, authorities, duties and functions as may be referred to the committees by the Authority.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) (a) A person may be appointed to any such committee whether or not he is a member of the Authority.

(b) The office of a member of any such committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the committee and such allowances and travelling expenses as the Governor may from time to time determine.

Where any member of any such committee is an officer of the Public Service or of a statutory body representing the Crown, he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees, allowances and travelling expenses under this section in addition to any remuneration to which he is otherwise entitled.

**13.** The power to acquire land conferred on the Authority by section eleven of this Act shall extend to the acquisition of land whether or not previously appropriated or resumed for any purpose and, in the exercise of that power, the Authority may acquire land by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part.

**14.** (1) For the purposes of this Act the Governor may under the Public Works Act, 1912, as subsequently amended, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty.

(2) (a) The construction, provision and establishment of a public market and the carrying out of any works for any purpose referred to in section eleven of this Act shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as subsequently amended.

(b)

*Sydney Farm Produce Market Authority.*

(b) The Authority is empowered to carry out the said work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all necessary steps for the proper execution thereof as the Authority thinks proper.

(c) The provisions of the Public Works Act, 1912, as subsequently amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

(3) Without prejudice to the generality of subsection two of this section, the provisions of section thirty-eight of the Public Works Act, 1912, as subsequently amended, shall apply to and in respect of any contracts referred to in paragraph (b) of subsection two of this section.

15 **15.** (1) Notwithstanding the provisions of any other Act but subject to the provisions of this section, as on and from the expiration of six months after the date of publication in the Gazette of a proclamation notifying the appointment of the first members of the Authority no person other than the Authority shall use or permit the use of land or premises situated within the County of Cumberland as and for the purposes of a public market without the written permission of the Authority unless such land or premises was used for such purposes prior to the date of publication in the Gazette of the aforesaid proclamation.

Control over use of land for purposes of public market.

(2) Any application for written permission of the Authority to use any land or premises within the County of Cumberland for the purposes of a public market shall be made to the Authority in writing by the owner or occupier of the land or premises and shall supply all such particulars as are prescribed. If an application is made before such particulars have been prescribed, the application shall supply the particulars required by the Authority.

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*Sydney Farm Produce Market Authority.*

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(3) The Authority may approve of the application subject to conditions or disapprove thereof as it may deem proper in the circumstances of the case.

(4) Matters to be considered by the Authority in 5 dealing with any such application shall include the following :—

- 10 (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued, by or under any Act and, if such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under 15 the town and country planning scheme, planning scheme or interim development order concerned;
- (b) the suitability of the applicant and the merits of his application;
- 20 (c) the size, location and accessibility of the proposed site and its suitability for use as a public market;
- (d) the public interest, the distance of such site from the nearest public market and the question as to whether there is any need for a public market at the proposed location;
- 25 (e) the marketing and economic implications of the proposal;
- (f) the trends and any indications of change in the development and operation of the terminal marketing of farm produce in the County of Cumberland;
- 30 (g) the possibility or likelihood of the proposed public market being or becoming prejudicial to the effective exercise, performance or discharge by the Authority of the powers, authorities, duties and functions conferred or imposed upon it by this 35 Act;

(h)

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*Sydney Farm Produce Market Authority.*

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- (h) the interests of producers of farm produce likely to be sold at the proposed public market;
- (i) the interests of persons likely to become sellers of farm produce at such market; and
- 5 (j) any other matters prescribed for consideration by the Authority for the purposes of this section.

(5) The Authority shall not approve or approve subject to conditions any application submitted to it under this section unless use of the land in question for the purposes  
10 of a public market conforms with the requirements of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act and any approval of any kind given by the Authority in contravention of this subsection shall have no  
15 force or effect.

(6) Any person who contravenes any provision of this section or fails to comply with any condition attached to any approval given under this section shall be guilty of an offence against this Act and shall be liable upon summary  
20 conviction to a penalty not exceeding four hundred dollars and to a daily penalty for any continuing breach thereof not exceeding eighty dollars per day.

(7) In this section—  
25 “public market” means any place where a number of wholesalers, merchants, auctioneers or other persons congregate for the purpose of selling or disposing of farm produce to the public.

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*Sydney Farm Produce Market Authority.*

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## PART IV.

## CONSTITUTION OF COMMITTEES.

DIVISION 1.—*Constitution and functions of Staff Joint Committee.*

5 **16.** (1) There shall be constituted a joint committee, <sup>Staff Joint</sup> which shall be called the Staff Joint Committee, and which <sup>Committee.</sup> shall consist of five members as follows :—

- 10 (a) the Director General of the Department of Agriculture or his nominee who shall convene all meetings of the Staff Joint Committee and shall be chairman of the meetings ;
- (b) the Chairman of the Authority or his nominee ;
- (c) the Under Secretary of the Department of Local Government, or his nominee ;
- 15 (d) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee ; and
- 20 (e) the General Secretary of The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division, or, in the absence through sickness or other good cause of the General Secretary, his nominee.

(2) Three members of the Staff Joint Committee, one of whom shall be the Chairman, shall form a quorum.

25 (3) Where the voting on any question at a meeting of the Staff Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

*Sydney Farm Produce Market Authority.*

17. (1) As soon as practicable after it is constituted the Staff Joint Committee shall make determinations as to which of the servants of the Council of the City of Sydney who are wholly or principally employed by the Council at or in connection with the City Markets and with the exercise and discharge of the powers and functions of the Council in relation to such markets undertaking should be transferred to the Authority.

Functions  
of the  
Staff Joint  
Committee.

(2) When the Staff Joint Committee has made its determination it shall submit its report and recommendations to the Minister.

18. (1) Determinations made by the Staff Joint Committee pursuant to section seventeen of this Act shall be embodied in a proclamation.

Transfer  
of staff.

(2) A servant of the Council of the City of Sydney referred to in a proclamation made pursuant to subsection one of this section shall, on and from a day to be appointed (hereinafter referred to as the "appointed day") by proclamation, be transferred to the service of the Authority.

Upon transfer any such servant shall—

- 20 (a) become a servant of the Authority; and
- (b) be paid salary or wages not less than at the rate at which he was employed immediately before the appointed day, until that salary or those wages is or are varied or altered by the Authority :

25 Provided that such salary or wages shall not be reduced for a period of at least two years from the date of his transfer except to the extent necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed.

30

(3)

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*Sydney Farm Produce Market Authority.*

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(3) A person so transferred shall on and from the appointed day and until otherwise directed by the Authority continue to perform the duties which attached to his employment before that day.

5 (4) Subject to subsection five of this section the provisions of subsections two to seven inclusive of section 20c of the Local Government Act, 1919, as subsequently amended, shall, mutatis mutandis, apply to and in respect of a servant transferred pursuant to this section.

10 For the purposes of such application a reference to "the council of such new or other area" shall be read and construed as a reference to "the Authority".

(5) (a) This subsection applies to and in respect of persons transferred from the service of the Council pursuant  
15 to this section, being persons referred to in paragraph (a) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, who, pursuant to paragraph (b) of that subsection, elected to retain the rights and privileges referred to in that paragraph.

20 (b) Any person to whom this subsection applies, and who becomes entitled to receive a gratuity by virtue of the application of subsection five of section 20c of the Local Government Act, 1919, as subsequently amended,  
25 shall not be entitled to receive any compassionate or retiring allowance under any award or industrial agreement referred to in subsection two of the said section 20c :

Provided that the amount payable to any such person as a gratuity to which he becomes entitled as aforesaid shall not in any case be less than the amount which would have been  
30 payable to such person as a compassionate or retiring allowance under any such award or industrial agreement if this paragraph had not been enacted.

(c) For the purposes of paragraph (b) of subsection two of section twelve of the Local Government  
35 (Areas) Act, 1948, as subsequently amended, the services of  
any



*Sydney Farm Produce Market Authority.*

any person to whom this subsection applies with the Authority to which he is transferred pursuant to this section shall be deemed to be service with the Council of the City of Sydney.

(6) A servant of the Council who at the time of the  
5 constitution of the Authority is engaged on service—

(a) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth of Australia, or

10 (b) as an officer in that force in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

shall for the purposes of this section be deemed to be still in the employ of the Council and such service as well as service with the Council shall be counted as service with the  
15 Authority upon transfer thereto.

*DIVISION 2.—Constitution and functions of Finance Joint Committee.*

19. In this Division of this Part except in so far as the Definition.  
context or subject matter otherwise indicates or requires—

20 “assets” include land, structures, improvements, plant, equipment and other works of the Council of the City of Sydney situated or installed at the City Markets or used by the Council in connection therewith.

25 20. (1) There shall be constituted a joint committee, Finance Joint Committee  
which shall be called the Finance Joint Committee, and which shall consist of five members as follows—  
—constitution and functions.

30 (a) the Auditor-General or his nominee, who shall convene all meetings of the Finance Joint Committee and shall be chairman of the meetings;

(b)

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*Sydney Farm Produce Market Authority.*

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- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- 5 (d) the Director General of the Department of Agriculture, or his nominee; and
- (e) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee.

(2) Three members of the Finance Joint Committee, 10 one of whom shall be the chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Finance Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

15 (4) The functions of the Finance Joint Committee shall be—

- 20 (a) to determine (by apportionment or otherwise) what assets and rights, and what debts and liabilities of the Council are to be transferred to and become assets, rights, debts and liabilities of the Authority;
- 25 (b) to determine whether the expense of meeting payments on account of leave or upon retirement or termination of employment or death of a servant transferred from the service of the Council to the service of the Authority pursuant to this Act should be apportioned between the Council and the Authority and, if so, how the apportionment should be made;
- 30 (c) to determine what books, documents, records and papers of the Council are to be handed over to the Authority; and
- (d) such other matters as the Finance Joint Committee may consider necessary or expedient in relation to the foregoing.

(5)

*Sydney Farm Produce Market Authority.*

(5) Without limiting the generality of subsection four of this section, where the Finance Joint Committee considers that any asset or right or any debt or liability should be wholly or partly transferred to the Authority, the Committee may, instead of determining that the asset or right or the debt or liability be so transferred, determine that a payment shall be made in respect of that asset, right, debt or liability to or by the Authority or to or by the Council, as the case may be.

(6) The Finance Joint Committee may make separate determinations, either before or after the appointed day referred to in subsection two of section eighteen of this Act in respect of all or any of the matters referred to in subsections four and five of this section and shall submit its report and recommendations on any such determination to the Minister.

21. (1) Recommendations made by the Finance Joint Committee pursuant to section twenty of this Act shall be embodied in a proclamation or proclamations which may be made at any time either before or after the appointed day referred to in subsection two of section eighteen of this Act.

Recommendations of Finance Joint Committee to be embodied in proclamations.

(2) A proclamation made under subsection one of this section shall take effect—

(a) where it is made on or before the said appointed day—on that day; and

(b) where it is made after the said appointed day—on the day on which it is made,

or on a later day specified in the proclamation.

(3) A proclamation made under subsection one of this section shall—

(a) where it is expressed to transfer any asset or right or any debt or liability wholly or partly to the Authority or to transfer any books, documents,

records

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*Sydney Farm Produce Market Authority.*

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- 5 records or papers to the Authority, operate to vest in the Authority that asset or right, or that debt or liability, to the extent therein expressed or to vest in the Authority those books, documents, records or papers;
- (b) where it specifies an amount determined to be paid to the Authority by reason of an apportionment referred to in paragraph (b) of subsection four of section twenty of this Act, operate to create a debt of that amount payable by the Council to the Authority;
- 10 (c) where it embodies a determination made under paragraph (d) of the said subsection four operate and have effect according to its tenor; or
- 15 (d) where it specifies an amount to be paid to or by the Authority by reason of a determination made under subsection five of section twenty of this Act, operate to create a debt of that amount payable to or by the Authority or to or by the Council, as the case may be.
- 20
- (4) Without limiting the generality of subsection three of this section, the following provisions shall, by virtue of this Act, apply in respect of any asset, right, debt or liability vested by a proclamation made under that subsection 25 in the Authority—
- (a) moneys, or liquidated and unliquidated claims which were payable to or recoverable by the Council shall be moneys, liquidated or unliquidated claims payable to or recoverable by the Authority;
- 30 (b) all suits, actions and proceedings pending immediately before the vesting shall be suits, actions and proceedings pending at the suit of the Authority;
- (c) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by 35 the Council and in force immediately before the vesting

*Sydney Farm Produce Market Authority.*

- vesting shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority;
- 5 (d) the Authority may pursue the same remedies for the recovery of any moneys and claims and for the prosecution of any such suits, actions and proceedings as the Council might have done immediately before the day of such vesting;
- 10 (e) the Authority may enforce and realise any security or charge existing immediately before the day of vesting in favour of the Council in respect of any such moneys and claims as if the security or charge were existing in favour of the Authority;
- 15 (f) all debts due and moneys payable by the Council and all claims liquidated or unliquidated recoverable against the Council immediately before such vesting shall be debts due and moneys payable by and claims recoverable against the Authority; and
- 20 (g) no attornment by a lessee of any land vested in the Authority by virtue of a proclamation made under this section shall be necessary.

22. (1) Where the Minister is satisfied that the Finance Joint Committee has substantially exercised and performed its functions and powers he may notify the Finance Joint Committee that the functions of the Finance Joint Committee shall cease and determine and the Minister may thereafter exercise or perform, in respect of any assets, rights, debts or liabilities that have not been the subject of a determination made by the Finance Joint Committee under subsection four or five of section twenty of this Act, the functions and powers of the Finance Joint Committee.

(2) A reference in this Act to the Finance Joint Committee includes, where the Minister exercises or performs any function or power of the Finance Joint Committee pursuant to subsection one of this section, a reference to the Minister.

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PART

*Sydney Farm Produce Market Authority.*

PART V.

FINANCE.

23. (1) The Authority shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

Accounts to be kept by the Authority.

10 (2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

24. (1) The accounts of the Authority shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereinafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, as subsequently amended, shall apply to the Chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.

Audit of accounts.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- 25 (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- 30 (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and

(b)

*Sydney Farm Produce Market Authority.*

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25. The Authority may invest moneys held in government securities of the Commonwealth of Australia or of the State of New South Wales, or in any securities guaranteed by the Government of the said State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

Investment of funds.

26. (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

27. The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor borrow money for—

Purposes for which money may be borrowed.

- 25 (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;
- 30 or
- (d) any other purpose of this Act.

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*Sydney Farm Produce Market Authority.*

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28. (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority. Reserves for repayment.

(2) The Authority shall during each year transfer 5 to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

(3) (a) Moneys held as reserve for loan repay- 10 ment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of the said State, or in such 15 other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were 20 made.

(c) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose 25 until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for 30 which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of  
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*Sydney Farm Produce Market Authority.*

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four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) If after a loan has been repaid there remains in  
5 the reserve for repayment of that loan any balance, such balance shall form part of the funds of the Authority.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

10 (7) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

**29.** (1) For securing repayment of the principal and <sup>Debentures,</sup> interest on any moneys borrowed, the Authority may as <sup>etc.</sup> provided by the regulations issue debentures, bonds, inscribed  
15 stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

20 (3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's  
25 worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as subsequently amended, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a  
30 debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the  
interest

*Sydney Farm Produce Market Authority.*

interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from such guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of the charge.

**30.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, as subsequently amended.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

**31.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

5 (3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

10 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;

(b) such advertisement as the judge may direct has been published;

15 (c) six months have elapsed since the publication of the last of the advertisements; and

20 (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

25 (5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

30 **32.** (1) A person advancing money to the Authority shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication. Protection of investments.

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*Sydney Farm Produce Market Authority.*

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(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all  
5 conditions precedent to the borrowing have been complied with.

33. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above  
10 another by reason of priority of date or otherwise. Deben-  
tures and  
bonds to  
rank pari  
passu.

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PART VI.

GENERAL.

34. (1) Where under the provisions of this Act or any regulation the Authority— Fixing of  
fees and  
charges.

- 15      (a) supplies any service, product or commodity;  
          (b) gives any permission;  
          (c) prepares and issues any document;  
          (d) furnishes any information;  
          (e) makes any registration; or  
20      (f) receives any application for its approval,

the charge or fee therefor may be fixed by regulations or where there is no charge or fee so fixed, then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

25      (2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, document or information is supplied, given, made or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

**35.** (1) The Governor may make regulations, not inconsistent with this Act, for and with respect to— Regulations.

- 10 (a) any of the powers conferred upon or duties imposed upon the Minister or the Authority;
- (b) regulating the use, letting and occupation of any public market;
- (c) regulating the conduct of persons using or resorting to any public market;
- 15 (d) regulating the presence, use and movement on or in any public market of vehicles of every class or description, and animals;
- (e) regulating the method of selling in any public market;
- 20 (f) preventing and suppressing nuisances and enforcing cleanliness in and in connection with any public market and providing for and regulating the storage, removal, treatment and disposal of garbage, offal and waste therein or therefrom;
- 25 (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 30 (h) fixing any penalties not exceeding one hundred dollars or, in the case of a continuing offence, not exceeding ten dollars per day, for non-compliance with any regulation.

(2)

*Sydney Farm Produce Market Authority.*

(2) The regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of publication or from a later date to be specified therein ;

5 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

10 (3) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

15 **36.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal of the Authority.

(a) shall take judicial notice of the seal of the Authority affixed to any document ; and

20 (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

**37.** Where in any Act other than this Act or in any ordinance, regulation, by-law, proclamation or in any instrument or document relating to or associated with the City Markets and the exercise and discharge by the Council of the City of Sydney of its powers, authorities, duties and functions with respect to such Markets reference, either express or implied, is made to the Council of the City of Sydney or to the Municipal Council of Sydney, such reference shall, except where otherwise expressly provided by this Act, or in so far as the context or subject matter otherwise indicates or requires, be construed as a reference to the Authority.

References to Council of the City of Sydney in other Acts, ordinances, regulations, by-laws, etc.

*Sydney Farm Produce Market Authority.*

38. Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post. Service of notice of proceedings on the Authority.

5 39. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Chairman of the Authority. Documents —how authenticated.

10 40. (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalty.

15 (2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

41. (1) Any charge, fee, remuneration or money due to the Authority under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction. Recovery of charges, etc.

20 (2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

25 (a) section twenty-four of the Common Law Procedure Act, 1899, as subsequently amended;

(b) section sixty-four of the District Courts Act, 1912, as subsequently amended;

(c) section twenty-five of the Small Debts Recovery Act, 1912, as subsequently amended.

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*Sydney Farm Produce Market Authority.*

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**42.** In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of— Proof of certain matters not required.

- (a) the constitution of the Authority;
- 5 (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.
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**43.** (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution—

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- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- 20 (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act;
- (d) to any other person approved by the Minister.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Authority.

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(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person

under



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*Sydney Farm Produce Market Authority.*

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under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

5 (5) The Authority may by resolution revoke any such delegation.

44. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section. Notice of action.

15 (2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 20 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all 25 facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall 30 not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

Provided

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*Sydney Farm Produce Market Authority.*

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Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 5 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

10 (5) Every such action shall be commenced within the period (in this subsection referred to as the "prescribed period") of twelve months next after the occurring of the cause of action :

15 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed

20 period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

25 Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules

30 of court.

(6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action,

35 and in case the same is not accepted may plead the tender in bar.

(7)

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*Sydney Farm Produce Market Authority.*

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(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**45.** (1) As soon as practicable after the thirtieth day of <sup>Annual</sup> report.  
5 June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid.

(2) The Minister shall lay such report or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.  
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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968  
[35c]

Special Power Product Market Authority

(7) The defendant in every such action may plead the provisions and of the Special Powers Act and the special matter in evidence.

(1) As soon as practicable after the thirtieth day of August in each year, the Authority shall prepare and submit to the Minister a report upon the operations and activities of the Authority during the year ending on the date thereof.

(2) The Minister shall lay such report or cause it to be laid before both Houses of Parliament as soon as practicable after receipt by him of the report.

BY AUTHORITY OF THE GOVERNMENT OF NIGERIA  
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# SYDNEY FARM PRODUCE MARKET AUTHORITY BILL, 1968

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## EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to provide for the constitution of the Sydney Farm Produce Market Authority ;
- (b) to define the powers, authorities, duties and functions of such Authority ;
- (c) to provide for the transfer of the ownership and control of the public markets at the Haymarket, Sydney, from the Council of the City of Sydney to such Authority, and for this purpose to provide for the vesting of certain property in and for the transfer of certain servants of the Council to the Authority as from a day to be appointed for the purpose ;
- (d) to constitute a committee, to be known as the Staff Joint Committee, to determine what staff of the Council should be transferred to the service of the Authority ;
- (e) to constitute a committee, to be known as the Finance Joint Committee, and to make provision for the determination of what assets, rights, debts and liabilities of the Council should be transferred to the Authority ;
- (f) to prohibit without the approval of the Authority the establishment of public markets within the County of Cumberland after the expiration of six months from the constitution of the Authority.

SYDNEY FARM PRODUCE MARKET AUTHORITY BILL, 1968

EXPLANATORY NOTE

The object of the Bill is—

- (a) to provide for the establishment of the Sydney Farm Produce Market Authority;
- (b) to confer the powers, authorities, duties and functions of such Authority;
- (c) to provide for the transfer of the business and control of the public markets in the Government, State, Territory or Commonwealth of Australia to such Authority, and for the purpose to provide for the setting of certain provisions in relation to the transfer of certain services of the Council to the Authority as from a day so appointed for the purpose;
- (d) to constitute a committee to be known as the Staff Joint Committee, to advise the Authority on matters which should be referred to the review of the Council, and to advise the Council on matters which should be referred to the review of the Authority;
- (e) to constitute a committee to be known as the Finance Joint Committee, and to make provision for the determination of what assets, rights, debts and liabilities of the Council should be transferred to the Authority;
- (f) to provide for the transfer of the business of the Authority, the establishment of public markets, and the setting of certain provisions in relation to the transfer of such business to the Authority, as from a day so appointed for the purpose.

PROOF

No. , 1968.

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## A BILL

To provide for the constitution of the Sydney Farm Produce Market Authority and to define its powers, authorities, duties and functions; to provide for the transfer to the service of the Authority of certain servants of the Council of the City of Sydney; to vest certain property in the Authority; and for purposes connected therewith.

[MR CRAWFORD—27 March, 1968.]

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*Sydney Farm Produce Market Authority.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Sydney Farm Produce Market Authority Act, 1968". Short title and commencement.

10 (2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation.

2. This Act is divided into Parts, as follows :—

Division into Parts.

PART I.—PRELIMINARY—ss. 1-3.

15 PART II.—CONSTITUTION OF THE AUTHORITY—ss. 4-10.

PART III.—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—ss. 11-15.

20 PART IV.—CONSTITUTION OF COMMITTEES—ss. 16-22.

DIVISION 1.—*Constitution and functions of Staff Joint Committee*—ss. 16-18.

DIVISION 2.—*Constitution and functions of Finance Joint Committee*—ss. 19-22.

25 PART V.—FINANCE—ss. 23-33.

PART VI.—GENERAL—ss. 34-45.

3. In this Act, except in so far as the context or subject matter otherwise indicates or requires,— Interpretation.

30 "Authority" means the Sydney Farm Produce Market Authority constituted by and under this Act;

"City



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*Sydney Farm Produce Market Authority.*

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- “City Markets” means the public markets established and maintained by the Council of the City of Sydney at Haymarket, Sydney, for the sale of fruit, vegetables and other commodities;
- 5 “council” has the meaning ascribed thereto in the Local Government Act, 1919, as subsequently amended;
- “farm produce” means vegetables, potatoes and other edible roots and tubers, fruit, eggs, poultry, honey and such other commodities as the Governor may, by regulation, declare to be farm produce;
- 10 “land” includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land;
- “member” means member of the Authority;
- 15 “prescribed” means prescribed by this Act or by the regulations;
- “proclamation” means a proclamation of the Governor published in the Gazette;
- 20 “public market” means public market provided, maintained, controlled and managed by the Authority and the City Markets or parts thereof maintained, controlled and managed by the Authority;
- “regulations” means regulations made under this Act;
- 25 “wholesaler” means a person who sells by wholesale any farm produce—
- (a) on behalf of producers or other persons whether on commission or for or in expectation of any fee, gain or reward or otherwise; or
- 30 (b) on his own behalf;
- whether such sale is by auction or otherwise.

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PART

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*Sydney Farm Produce Market Authority.*

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PART II.

CONSTITUTION OF THE AUTHORITY.

4. (1) (a) There shall be a Sydney Farm Produce Market Authority which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

Constitution  
of Authority.

In the exercise and discharge of such powers, authorities, duties and functions the Authority shall be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of nine members appointed by the Governor. Of the members so appointed—

- (i) one shall be nominated by the Minister;
- (ii) one shall be a person who is an officer within the meaning ascribed to that term by the Local Government Act, 1919, as subsequently amended, and shall be nominated by the Minister for the time being administering that Act;
- (iii) one shall be an officer of the Treasury nominated by the Treasurer;
- (iv) one shall be an officer of a Government Department under the control of the Minister for Transport or of a statutory body representing the Crown under the control of that Minister and shall be nominated by that Minister;
- (v) five shall be nominated by the Minister after consideration of a panel of names submitted to him, in accordance with any request by him, by organisations representing producers of farm produce, wholesalers, consumers and other interests concerned.

(d)

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*Sydney Farm Produce Market Authority.*

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(d) The member appointed pursuant to subparagraph (i) of paragraph (c) of this subsection shall in and by the instrument by which he is appointed be the Chairman of the Authority and that member appointed pursuant to sub-  
5 paragraph (ii), (iii) or (iv) of paragraph (c) of this subsection as the Governor designates shall in and by the instrument by which he is appointed be the Deputy Chairman of the Authority.

(2) (a) A member shall, subject to this Act, be  
10 appointed for such term not exceeding five years as may be specified in the instrument of appointment and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of  
15 reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

(ii) An appointment to fill a vacant office  
20 shall be made on the nomination of the person who nominates the member whose office has become vacant, and where the member whose office has become vacant held the qualification required by subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section the person appointed to the  
25 vacant office shall be a person holding the like qualification.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3) (a) During the illness or absence of the Chairman the Deputy Chairman shall have the immunities, powers,  
30 authorities and duties (other than that referred to in paragraph (a) of subsection four of this section) of the Chairman.

(b) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the  
35 Chairman; and all acts or things done or omitted by the Deputy

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*Sydney Farm Produce Market Authority.*

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Deputy Chairman while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(4) (a) The Chairman shall devote the whole of his 5 time to the duties of his office.

(b) The Chairman shall receive such annual salary and allowances as the Governor may from time to time determine.

Each member other than the Chairman shall receive such 10 remuneration and allowances as the Governor may from time to time determine.

The Deputy Chairman whilst acting as Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

15 (c) Where any member not being the Chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and allowances 20 under this section in addition to any remuneration and allowances to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or 25 prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the Chairman).

(e) The office of a member (other than the 30 Chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(5)

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*Sydney Farm Produce Market Authority.*

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(5) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member and any member so appointed shall not, in his capacity as such member, be  
5 subject to the provisions of that Act, as so amended, during his term of office.

(6) A member shall be deemed to have vacated his office—

- 10 (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- 15 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- 20 (d) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 25 (e) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is before the expiration of four weeks after the last of such meetings excused by the  
30 Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;

(g)

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*Sydney Farm Produce Market Authority.*

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- 5 (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- 10 (i) if he is removed from office by the Governor;
- (j) if he ceases to hold the qualification by virtue of which he was appointed.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

- 15 (7) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(8) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in  
20 pursuance of subsection six (paragraph (h) excepted) or seven of this section shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

- 25 (9) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as Chairman who is at the  
30 thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(b)

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*Sydney Farm Produce Market Authority.*

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(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, as the case may be, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

In respect of a Chairman who contributes to a fund or account as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such Chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as Chairman.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Authority  
to be body  
corporate—  
proceed-  
ings of  
Authority.

(2) The corporate name of the Authority shall be the "Sydney Farm Produce Market Authority".

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

15 (b) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the member chosen by the members present at the meeting to act as Chairman shall preside at any meeting of the Authority.

15 (c) Six members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

20 (d) The Chairman or Deputy Chairman or member acting as Chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

30 (5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7)



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*Sydney Farm Produce Market Authority.*

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(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising.

6. (1) The Authority shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

(3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

7. The regulations may make provision—

Regulations  
re servants.

(a) for and in relation to the control and governance of servants by the Authority; and

(b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

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*Sydney Farm Produce Market Authority.*

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8. The Crown Employees Appeal Board Act, 1944, as subsequently amended, is amended by inserting at the end of the Second Schedule the words "The Sydney Farm Produce Market Authority". Amendment of Act No. 15, 1944. Second Schedule.
- 5 9. (1) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, Authority may make use of certain employees of the Crown, statutory bodies and councils.  
10 make use of the services of any of the officers or employees of any Government Department.
- (2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the 15 services of any of the officers, servants or employees of such statutory body or council.
10. (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies 20 before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such 25 servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.
- 30 (2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

(3)

*Sydney Farm Produce Market Authority.*

(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

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**PART III.**

**POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY.**

**11.** (1) Subject to this Act, the Authority may within the County of Cumberland provide, maintain, control and manage public markets for the sale or disposal of farm produce and in, upon or in connection with such public markets exercise any powers, authorities, duties or functions conferred or imposed upon it by this Act.

Powers, authorities, duties, and functions of the Authority.

Upon the City Markets or any part thereof becoming vested in the Authority, the Authority shall maintain, control and manage the City Markets or part thereof as a place for the sale or disposal of farm produce and any other commodities which were sold or disposed of at the City Markets or part thereof immediately prior to the vesting thereof in the Authority.

Such maintenance, control and management shall cease upon a day to be appointed by the Governor and notified by proclamation, such day being not earlier than the establishment or provision by the Authority of public markets in substitution of the City Markets or part thereof vested in the Authority and adequate in the opinion of the Minister for the sale or disposal of farm produce.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) For the purposes of and subject to this Act the Authority is hereby empowered and authorised—

- 5 (a) to exercise the powers and authorities conferred by Part XX of the Local Government Act, 1919, as subsequently amended, upon a council in respect of any public market provided, controlled or managed by the council;
- 10 (b) to acquire land, machinery (including refrigerating machinery and machinery suitable for the ripening of farm produce), plant, goods, chattels and effects;
- 15 (c) to erect, maintain, repair, operate, regulate, use and regulate the use of buildings (including buildings for cold storage and the inspection, sorting and ripening of farm produce) and all machinery and plant used in connection therewith;
- 20 (d) in, upon or in connection with a public market—
  - (i) to construct or arrange for the construction of railway sidings and all necessary appurtenances thereto;
  - (ii) to make, maintain and repair or contribute in aid of the construction, maintenance and repair of roads, market ways, drains and convenient approaches;
- 25 (e) to grant to wholesalers, merchants, producers of farm produce and to other persons a right to use and occupy for the sale and disposal of farm produce or for any other purpose approved by the Authority any portion or portions of a public market; to grant any such right by means of lease, license or permit upon such terms and conditions as may be agreed upon between such persons and the Authority and by or in connection with any such lease, license or permit to charge such rentals, fees, dues or amounts, not exceeding the maximum, if any, prescribed therefor, as may be determined from time to time by the Authority;
- 30
- 35
- (f)

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*Sydney Farm Produce Market Authority.*

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- (f) to charge a fee whenever the Authority—
- (i) supplies any service, product or commodity;
  - (ii) grants any lease, license or permit;
  - 5 (iii) gives any permission or prepares and issues any document authorising the holder to have access to a public market or to any buildings, improvements or facilities established therein or in connection therewith;
- 10 (g) to sell any farm produce for the owners, agents or consignors thereof in accordance with any arrangement relating to commission or reward which the Authority may make with such owners, agents or consignors;
- 15 (h) to support with or without grant of financial aid and whether or not initiated by the Authority any scheme or activity which in the opinion of the Authority is capable of assisting in the promotion of the sale in any public market of farm produce;
- 20 (i) to provide within or adjacent to a public market shops, stalls or areas for the sale or disposal of commodities other than farm produce or the rendering or performance of services to the public; and
- 25 (j) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, authorities, duties and functions.

12. (1) The Authority may establish committees for the purpose of advising the Authority upon such matters within the scope of the Authority's powers, authorities, duties and functions as may be referred to the committees by the Authority.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) (a) A person may be appointed to any such committee whether or not he is a member of the Authority.

(b) The office of a member of any such committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the committee and such allowances and travelling expenses as the Governor may from time to time determine.

Where any member of any such committee is an officer of the Public Service or of a statutory body representing the Crown, he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees, allowances and travelling expenses under this section in addition to any remuneration to which he is otherwise entitled.

**13.** The power to acquire land conferred on the Authority by section eleven of this Act shall extend to the acquisition of land whether or not previously appropriated or resumed for any purpose and, in the exercise of that power, the Authority may acquire land by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part.

**14.** (1) For the purposes of this Act the Governor may under the Public Works Act, 1912, as subsequently amended, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty.

(2) (a) The construction, provision and establishment of a public market and the carrying out of any works for any purpose referred to in section eleven of this Act shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as subsequently amended.

(b)

*Sydney Farm Produce Market Authority.*

(b) The Authority is empowered to carry out the said work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all necessary steps for the proper execution thereof as the Authority thinks proper.

(c) The provisions of the Public Works Act, 1912, as subsequently amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

(3) Without prejudice to the generality of subsection two of this section, the provisions of section thirty-eight of the Public Works Act, 1912, as subsequently amended, shall apply to and in respect of any contracts referred to in paragraph (b) of subsection two of this section.

15 **15.** (1) Notwithstanding the provisions of any other Act but subject to the provisions of this section, as on and from the expiration of six months after the date of publication in the Gazette of a proclamation notifying the appointment of the first members of the Authority no person other than the Authority shall use or permit the use of land or premises situated within the County of Cumberland as and for the purposes of a public market without the written permission of the Authority unless such land or premises was used for such purposes prior to the date of publication in the Gazette of the aforesaid proclamation.

Control  
over use  
of land for  
purposes  
of public  
market.

(2) Any application for written permission of the Authority to use any land or premises within the County of Cumberland for the purposes of a public market shall be made to the Authority in writing by the owner or occupier of the land or premises and shall supply all such particulars as are prescribed. If an application is made before such particulars have been prescribed, the application shall supply the particulars required by the Authority.

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*Sydney Farm Produce Market Authority.*

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(3) The Authority may approve of the application subject to conditions or disapprove thereof as it may deem proper in the circumstances of the case.

(4) Matters to be considered by the Authority in dealing with any such application shall include the following :—

- 10 (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued, by or under any Act and, if such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under the town and country planning scheme, planning scheme or interim development order concerned;
- 15 (b) the suitability of the applicant and the merits of his application;
- 20 (c) the size, location and accessibility of the proposed site and its suitability for use as a public market;
- (d) the public interest, the distance of such site from the nearest public market and the question as to whether there is any need for a public market at the proposed location;
- 25 (e) the marketing and economic implications of the proposal;
- (f) the trends and any indications of change in the development and operation of the terminal marketing of farm produce in the County of Cumberland;
- 30 (g) the possibility or likelihood of the proposed public market being or becoming prejudicial to the effective exercise, performance or discharge by the Authority of the powers, authorities, duties and functions conferred or imposed upon it by this Act;
- 35

(h)



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*Sydney Farm Produce Market Authority.*

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- (h) the interests of producers of farm produce likely to be sold at the proposed public market;
- (i) the interests of persons likely to become sellers of farm produce at such market; and
- 5 (j) any other matters prescribed for consideration by the Authority for the purposes of this section.

(5) The Authority shall not approve or approve subject to conditions any application submitted to it under this section unless use of the land in question for the purposes  
10 of a public market conforms with the requirements of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act and any approval of any kind given by the Authority in contravention of this subsection shall have no  
15 force or effect.

(6) Any person who contravenes any provision of this section or fails to comply with any condition attached to any approval given under this section shall be guilty of an offence against this Act and shall be liable upon summary  
20 conviction to a penalty not exceeding four hundred dollars and to a daily penalty for any continuing breach thereof not exceeding eighty dollars per day.

(7) In this section—

25 “public market” means any place where a number of wholesalers, merchants, auctioneers or other persons congregate for the purpose of selling or disposing of farm produce to the public.

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PART

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*Sydney Farm Produce Market Authority.*

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**PART IV.**

CONSTITUTION OF COMMITTEES.

DIVISION 1.—*Constitution and functions of Staff Joint Committee.*

5 **16.** (1) There shall be constituted a joint committee, <sup>Staff Joint</sup> which shall be called the Staff Joint Committee, and which <sup>Committee.</sup> shall consist of five members as follows :—

- 10 (a) the Director General of the Department of Agriculture or his nominee who shall convene all meetings of the Staff Joint Committee and shall be chairman of the meetings;
- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- 15 (d) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee; and
- 20 (e) the General Secretary of The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division, or, in the absence through sickness or other good cause of the General Secretary, his nominee.

(2) Three members of the Staff Joint Committee, one of whom shall be the Chairman, shall form a quorum.

25 (3) Where the voting on any question at a meeting of the Staff Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

*Sydney Farm Produce Market Authority.*

17. (1) As soon as practicable after it is constituted the Staff Joint Committee shall make determinations as to which of the servants of the Council of the City of Sydney who are wholly or principally employed by the Council at or in connection with the City Markets and with the exercise and discharge of the powers and functions of the Council in relation to such markets undertaking should be transferred to the Authority.

Functions  
of the  
Staff Joint  
Committee.

(2) When the Staff Joint Committee has made its determination it shall submit its report and recommendations to the Minister.

18. (1) Determinations made by the Staff Joint Committee pursuant to section seventeen of this Act shall be embodied in a proclamation.

Transfer  
of staff.

(2) A servant of the Council of the City of Sydney referred to in a proclamation made pursuant to subsection one of this section shall, on and from a day to be appointed (hereinafter referred to as the "appointed day") by proclamation, be transferred to the service of the Authority.

Upon transfer any such servant shall—

- 20 (a) become a servant of the Authority; and
- (b) be paid salary or wages not less than at the rate at which he was employed immediately before the appointed day, until that salary or those wages is or are varied or altered by the Authority :

25 Provided that such salary or wages shall not be reduced for a period of at least two years from the date of his transfer except to the extent necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or

30 wages is or are fixed.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) A person so transferred shall on and from the appointed day and until otherwise directed by the Authority continue to perform the duties which attached to his employment before that day.

5 (4) Subject to subsection five of this section the provisions of subsections two to seven inclusive of section 20c of the Local Government Act, 1919, as subsequently amended, shall, mutatis mutandis, apply to and in respect of a servant transferred pursuant to this section.

10 For the purposes of such application a reference to "the council of such new or other area" shall be read and construed as a reference to "the Authority".

(5) (a) This subsection applies to and in respect of persons transferred from the service of the Council pursuant  
15 to this section, being persons referred to in paragraph (a) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, who, pursuant to paragraph (b) of that subsection, elected to retain the rights and privileges referred to in that paragraph.

20 (b) Any person to whom this subsection applies, and who becomes entitled to receive a gratuity by virtue of the application of subsection five of section 20c of the Local Government Act, 1919, as subsequently amended,  
25 shall not be entitled to receive any compassionate or retiring allowance under any award or industrial agreement referred to in subsection two of the said section 20c :

Provided that the amount payable to any such person as a gratuity to which he becomes entitled as aforesaid shall not in any case be less than the amount which would have been  
30 payable to such person as a compassionate or retiring allowance under any such award or industrial agreement if this paragraph had not been enacted.

(c) For the purposes of paragraph (b) of subsection two of section twelve of the Local Government  
35 (Areas) Act, 1948, as subsequently amended, the services of  
any

*Sydney Farm Produce Market Authority.*

any person to whom this subsection applies with the Authority to which he is transferred pursuant to this section shall be deemed to be service with the Council of the City of Sydney.

(6) A servant of the Council who at the time of the  
5 constitution of the Authority is engaged on service—

(a) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth of Australia, or

10 (b) as an officer in that force in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

shall for the purposes of this section be deemed to be still in the employ of the Council and such service as well as service with the Council shall be counted as service with the  
15 Authority upon transfer thereto.

*DIVISION 2.—Constitution and functions of Finance Joint Committee.*

19. In this Division of this Part except in so far as the Definition. context or subject matter otherwise indicates or requires—

20 “assets” include land, structures, improvements, plant, equipment and other works of the Council of the City of Sydney situated or installed at the City Markets or used by the Council in connection therewith.

25 20. (1) There shall be constituted a joint committee, Finance Joint Committee which shall be called the Finance Joint Committee, and which —constitution and functions. shall consist of five members as follows—

(a) the Auditor-General or his nominee, who shall convene all meetings of the Finance Joint Committee and shall be chairman of the meetings;  
30

(b)

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*Sydney Farm Produce Market Authority.*

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- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- 5 (d) the Director General of the Department of Agriculture, or his nominee; and
- (e) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee.

(2) Three members of the Finance Joint Committee, 10 one of whom shall be the chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Finance Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

15 (4) The functions of the Finance Joint Committee shall be—

- 20 (a) to determine (by apportionment or otherwise) what assets and rights, and what debts and liabilities of the Council are to be transferred to and become assets, rights, debts and liabilities of the Authority;
- 25 (b) to determine whether the expense of meeting payments on account of leave or upon retirement or termination of employment or death of a servant transferred from the service of the Council to the service of the Authority pursuant to this Act should be apportioned between the Council and the Authority and, if so, how the apportionment should be made;
- 30 (c) to determine what books, documents, records and papers of the Council are to be handed over to the Authority; and
- (d) such other matters as the Finance Joint Committee may consider necessary or expedient in relation to the foregoing.

(5)

*Sydney Farm Produce Market Authority.*

(5) Without limiting the generality of subsection four of this section, where the Finance Joint Committee considers that any asset or right or any debt or liability should be wholly or partly transferred to the Authority, the Committee may, instead of determining that the asset or right or the debt or liability be so transferred, determine that a payment shall be made in respect of that asset, right, debt or liability to or by the Authority or to or by the Council, as the case may be.

(6) The Finance Joint Committee may make separate determinations, either before or after the appointed day referred to in subsection two of section eighteen of this Act in respect of all or any of the matters referred to in subsections four and five of this section and shall submit its report and recommendations on any such determination to the Minister.

21. (1) Recommendations made by the Finance Joint Committee pursuant to section twenty of this Act shall be embodied in a proclamation or proclamations which may be made at any time either before or after the appointed day referred to in subsection two of section eighteen of this Act.

Recommendations of Finance Joint Committee to be embodied in proclamations.

(2) A proclamation made under subsection one of this section shall take effect—

- (a) where it is made on or before the said appointed day—on that day; and
- (b) where it is made after the said appointed day—on the day on which it is made,

or on a later day specified in the proclamation.

(3) A proclamation made under subsection one of this section shall—

- (a) where it is expressed to transfer any asset or right or any debt or liability wholly or partly to the Authority or to transfer any books, documents,

records

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*Sydney Farm Produce Market Authority.*

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- 5 records or papers to the Authority, operate to vest in the Authority that asset or right, or that debt or liability, to the extent therein expressed or to vest in the Authority those books, documents, records or papers;
- (b) where it specifies an amount determined to be paid to the Authority by reason of an apportionment referred to in paragraph (b) of subsection four of section twenty of this Act, operate to create a debt of that amount payable by the Council to the Authority;
- (c) where it embodies a determination made under paragraph (d) of the said subsection four operate and have effect according to its tenor; or
- 15 (d) where it specifies an amount to be paid to or by the Authority by reason of a determination made under subsection five of section twenty of this Act, operate to create a debt of that amount payable to or by the Authority or to or by the Council, as the case may be.
- 20 (4) Without limiting the generality of subsection three of this section, the following provisions shall, by virtue of this Act, apply in respect of any asset, right, debt or liability vested by a proclamation made under that subsection 25 in the Authority—
- (a) moneys, or liquidated and unliquidated claims which were payable to or recoverable by the Council shall be moneys, liquidated or unliquidated claims payable to or recoverable by the Authority;
- 30 (b) all suits, actions and proceedings pending immediately before the vesting shall be suits, actions and proceedings pending at the suit of the Authority;
- (c) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by
- 35 the Council and in force immediately before the vesting



*Sydney Farm Produce Market Authority.*

vesting shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority;

- 5 (d) the Authority may pursue the same remedies for the recovery of any moneys and claims and for the prosecution of any such suits, actions and proceedings as the Council might have done immediately before the day of such vesting;
- 10 (e) the Authority may enforce and realise any security or charge existing immediately before the day of vesting in favour of the Council in respect of any such moneys and claims as if the security or charge were existing in favour of the Authority;
- 15 (f) all debts due and moneys payable by the Council and all claims liquidated or unliquidated recoverable against the Council immediately before such vesting shall be debts due and moneys payable by and claims recoverable against the Authority; and
- 20 (g) no attornment by a lessee of any land vested in the Authority by virtue of a proclamation made under this section shall be necessary.

22. (1) Where the Minister is satisfied that the Finance Joint Committee has substantially exercised and performed its functions and powers he may notify the Finance Joint Committee that the functions of the Finance Joint Committee shall cease and determine and the Minister may thereafter exercise or perform, in respect of any assets, rights, debts or liabilities that have not been the subject of a determination made by the Finance Joint Committee under subsection four or five of section twenty of this Act, the functions and powers of the Finance Joint Committee.

(2) A reference in this Act to the Finance Joint Committee includes, where the Minister exercises or performs any function or power of the Finance Joint Committee pursuant to subsection one of this section, a reference to the Minister.

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PART

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*Sydney Farm Produce Market Authority.*

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## PART V.

## FINANCE.

23. (1) The Authority shall cause to be kept proper books of account in relation to all of its operations, and shall, <sup>Accounts to be kept by the Authority.</sup> as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.
- 10 (2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
24. (1) The accounts of the Authority shall be audited <sup>Audit of accounts.</sup> by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereinafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, as subsequently amended, shall apply to the Chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.
- (2) The Auditor-General shall report to the Authority and the Minister—
- (a) whether or not in his opinion—
- 25 (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- 30 (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and
- (b)

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*Sydney Farm Produce Market Authority.*

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(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25 **25.** The Authority may invest moneys held in government securities of the Commonwealth of Australia or of the State of New South Wales, or in any securities guaranteed by the Government of the said State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

15 **26.** (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

20 (2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

25 **27.** The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor borrow money for—

(a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;

(b) the renewal of loans;

(c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;

30 or

(d) any other purpose of this Act.

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28. (1) The Authority shall establish a reserve for loan Reserves  
repayment fund in respect of each loan or renewal loan raised for repay-  
by the Authority. ment.

(2) The Authority shall during each year transfer  
5 to each such fund from the revenue of the Authority a sum  
not less than the sum that the Authority in its application for  
approval of the loan intimated that it proposed to transfer  
as aforesaid.

(3) (a) Moneys held as reserve for loan repay-  
10 ment may be invested in government securities of the Com-  
monwealth of Australia or of the State of New South Wales,  
or in debentures, bonds, inscribed stock or other prescribed  
securities in any loan of the Authority, or in any securities  
15 other securities as the Governor may approve or as may be  
prescribed, in each case at their current market price.

(b) Any interest or profits realised on such  
investments shall be added to and form part of the reserve  
for loan repayment fund from which the investments were  
20 made.

(c) All moneys paid into the reserve for loan  
repayment fund in respect of any loan or renewal loan may  
be applied in or towards repayment of any other loan or  
renewal loan but may not be applied for any other purpose  
25 until the loan or renewal loan in respect of which the fund  
has been established has been repaid.

(4) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for  
30 which they were issued, then, in addition to the sum otherwise  
payable to the reserve for loan repayment in respect of that  
loan, the Authority shall, subject to any agreement to which  
it is a party whereby it undertakes to pay interest at a higher  
rate to such reserve, pay to such reserve interest at the rate of  
four

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*Sydney Farm Produce Market Authority.*

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four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) If after a loan has been repaid there remains in  
5 the reserve for repayment of that loan any balance, such balance shall form part of the funds of the Authority.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

10 (7) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

**29.** (1) For securing repayment of the principal and  
15 interest on any moneys borrowed, the Authority may as  
provided by the regulations issue debentures, bonds, inscribed  
stock or other prescribed securities. <sup>Debentures, etc.</sup>

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

20 (3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's  
25 worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as subsequently amended, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a  
30 debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the

interest

*Sydney Farm Produce Market Authority.*

interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from such guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of the charge.

**30.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, as subsequently amended.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

**31.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

5 (3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

10 (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;

(b) such advertisement as the judge may direct has been published;

15 (c) six months have elapsed since the publication of the last of the advertisements; and

20 (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

25 (5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

30 **32.** (1) A person advancing money to the Authority shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication. Protection of investments.

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*Sydney Farm Produce Market Authority.*

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(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all 5 conditions precedent to the borrowing have been complied with.

33. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above 10 another by reason of priority of date or otherwise. Deben-  
tures and  
bonds to  
rank pari  
passu.

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PART VI.

GENERAL.

34. (1) Where under the provisions of this Act or any regulation the Authority— Fixing of  
fees and  
charges.

- 15 (a) supplies any service, product or commodity ;  
 (b) gives any permission ;  
 (c) prepares and issues any document ;  
 (d) furnishes any information ;  
 (e) makes any registration ; or  
 20 (f) receives any application for its approval,

the charge or fee therefor may be fixed by regulations or where there is no charge or fee so fixed, then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

25 (2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3)



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*Sydney Farm Produce Market Authority.*

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(3) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, document or information is supplied, given, made or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

**35.** (1) The Governor may make regulations, not Regulations, inconsistent with this Act, for and with respect to—

- 10 (a) any of the powers conferred upon or duties imposed upon the Minister or the Authority;
- (b) regulating the use, letting and occupation of any public market;
- (c) regulating the conduct of persons using or resorting to any public market;
- 15 (d) regulating the presence, use and movement on or in any public market of vehicles of every class or description, and animals;
- (e) regulating the method of selling in any public market;
- 20 (f) preventing and suppressing nuisances and enforcing cleanliness in and in connection with any public market and providing for and regulating the storage, removal, treatment and disposal of garbage, offal and waste therein or therefrom;
- 25 (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- 30 (h) fixing any penalties not exceeding one hundred dollars or, in the case of a continuing offence, not exceeding ten dollars per day, for non-compliance with any regulation.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- 5 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

10 (3) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

15 **36.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal of the Authority.

- (a) shall take judicial notice of the seal of the Authority affixed to any document; and
- 20 (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

**37.** Where in any Act other than this Act or in any ordinance, regulation, by-law, proclamation or in any instrument or document relating to or associated with the City Markets and the exercise and discharge by the Council of the City of Sydney of its powers, authorities, duties and functions with respect to such Markets reference, either express or implied, is made to the Council of the City of Sydney or to the Municipal Council of Sydney, such reference shall, except where otherwise expressly provided by this Act, or in so far as the context or subject matter otherwise indicates or requires, be construed as a reference to the Authority.

References to Council of the City of Sydney in other Acts, ordinances, regulations, by-laws, etc.

*Sydney Farm Produce Market Authority.*

- 38.** Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post. Service of notice of proceedings on the Authority.
- 39.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Chairman of the Authority. Documents —how authenticated.
- 40.** (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalty.
- (2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.
- 41.** (1) Any charge, fee, remuneration or money due to the Authority under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction. Recovery of charges, etc.
- (2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—
- (a) section twenty-four of the Common Law Procedure Act, 1899, as subsequently amended;
- (b) section sixty-four of the District Courts Act, 1912, as subsequently amended;
- (c) section twenty-five of the Small Debts Recovery Act, 1912, as subsequently amended.

*Sydney Farm Produce Market Authority.*

42. In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of— Proof of certain matters not required.

- (a) the constitution of the Authority;
- 5 (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.
- 10

43. (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution— Delegation.

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- 20 (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act;
- (d) to any other person approved by the Minister.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Authority.

(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under

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*Sydney Farm Produce Market Authority.*

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under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

5 (5) The Authority may by resolution revoke any such delegation.

44. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any 10 servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section. <sup>Notice of action.</sup>

15 (2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 20 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all 25 facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall 30 not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

Provided

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*Sydney Farm Produce Market Authority.*

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Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 5       (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

- 10       (5) Every such action shall be commenced within the period (in this subsection referred to as the “prescribed period”) of twelve months next after the occurring of the cause of action :

Provided that where an application is made to a judge of  
15 the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed  
20 period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

- 25       Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules  
30 of court.

- (6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action,  
35 and in case the same is not accepted may plead the tender in bar.

(7)

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*Sydney Farm Produce Market Authority.*

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(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**45.** (1) As soon as practicable after the thirtieth day of <sup>Annual</sup> 5 June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid. <sup>report.</sup>

(2) The Minister shall lay such report or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

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BY AUTHORITY:  
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1968

Section 10. (1) The defendant in every such action may plead

the general issue and at the trial the jury shall determine the special matter in evidence.

(2) As soon as practicable after the trial the jury shall find a verdict for the plaintiff or the defendant and shall also find the amount of damages to be paid to the plaintiff or the defendant, and shall also find the amount of costs to be paid by the defendant to the plaintiff.

(3) The plaintiff shall pay any costs of the action to be paid before trial, unless the defendant is ordered to pay the same and the plaintiff is ordered to pay the same.



New South Wales



ANNO SEPTIMO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 11, 1968.**

An Act to provide for the constitution of the Sydney Farm Produce Market Authority and to define its powers, authorities, duties and functions; to provide for the transfer to the service of the Authority of certain servants of the Council of the City of Sydney; to vest certain property in the Authority; and for purposes connected therewith. [Assented to, 24th April, 1968.]

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*Sydney Farm Produce Market Authority.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title  
and com-  
mencement.

1. (1) This Act may be cited as the "Sydney Farm Produce Market Authority Act, 1968".

(2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation.

Division  
into Parts.

2. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—CONSTITUTION OF THE AUTHORITY—*ss.* 4–10.

PART III.—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—*ss.* 11–15.

PART IV.—CONSTITUTION OF COMMITTEES—*ss.* 16–22.

DIVISION 1.—*Constitution and functions of Staff Joint Committee—ss.* 16–18.

DIVISION 2.—*Constitution and functions of Finance Joint Committee—ss.* 19–22.

PART V.—FINANCE—*ss.* 23–33.

PART VI.—GENERAL—*ss.* 34–45.

Interpreta-  
tion.

3. In this Act, except in so far as the context or subject matter otherwise indicates or requires,—

“Authority” means the Sydney Farm Produce Market Authority constituted by and under this Act;

“City

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*Sydney Farm Produce Market Authority.*

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“City Markets” means the public markets established and maintained by the Council of the City of Sydney at Haymarket, Sydney, for the sale of fruit, vegetables and other commodities;

“council” has the meaning ascribed thereto in the Local Government Act, 1919, as subsequently amended;

“farm produce” means vegetables, potatoes and other edible roots and tubers, fruit, eggs, poultry, honey and such other commodities as the Governor may, by regulation, declare to be farm produce;

“land” includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land;

“member” means member of the Authority;

“prescribed” means prescribed by this Act or by the regulations;

“proclamation” means a proclamation of the Governor published in the Gazette;

“public market” means public market provided, maintained, controlled and managed by the Authority and the City Markets or parts thereof maintained, controlled and managed by the Authority;

“regulations” means regulations made under this Act;

“wholesaler” means a person who sells by wholesale any farm produce—

(a) on behalf of producers or other persons whether on commission or for or in expectation of any fee, gain or reward or otherwise; or

(b) on his own behalf;

whether such sale is by auction or otherwise.

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*Sydney Farm Produce Market Authority.*

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## PART II.

## CONSTITUTION OF THE AUTHORITY.

Constitution  
of Authority.

4. (1) (a) There shall be a Sydney Farm Produce Market Authority which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

In the exercise and discharge of such powers, authorities, duties and functions the Authority shall be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of nine members appointed by the Governor. Of the members so appointed—

- (i) one shall be nominated by the Minister;
- (ii) one shall be a person who is an officer within the meaning ascribed to that term by the Local Government Act, 1919, as subsequently amended, and shall be nominated by the Minister for the time being administering that Act;
- (iii) one shall be an officer of the Treasury nominated by the Treasurer;
- (iv) one shall be an officer of a Government Department under the control of the Minister for Transport or of a statutory body representing the Crown under the control of that Minister and shall be nominated by that Minister;
- (v) five shall be nominated by the Minister after consideration of a panel of names submitted to him, in accordance with any request by him, by organisations representing producers of farm produce, wholesalers, consumers and other interests concerned.

(d)

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*Sydney Farm Produce Market Authority.*

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(d) The member appointed pursuant to subparagraph (i) of paragraph (c) of this subsection shall in and by the instrument by which he is appointed be the Chairman of the Authority and that member appointed pursuant to subparagraph (ii), (iii) or (iv) of paragraph (c) of this subsection as the Governor designates shall in and by the instrument by which he is appointed be the Deputy Chairman of the Authority.

(2) (a) A member shall, subject to this Act, be appointed for such term not exceeding five years as may be specified in the instrument of appointment and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

(ii) An appointment to fill a vacant office shall be made on the nomination of the person who nominates the member whose office has become vacant, and where the member whose office has become vacant held the qualification required by subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section the person appointed to the vacant office shall be a person holding the like qualification.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3) (a) During the illness or absence of the Chairman the Deputy Chairman shall have the immunities, powers, authorities and duties (other than that referred to in paragraph (a) of subsection four of this section) of the Chairman.

(b) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman; and all acts or things done or omitted by the  
Deputy

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*Sydney Farm Produce Market Authority.*

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Deputy Chairman while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(4) (a) The Chairman shall devote the whole of his time to the duties of his office.

(b) The Chairman shall receive such annual salary and allowances as the Governor may from time to time determine.

Each member other than the Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

The Deputy Chairman whilst acting as Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

(c) Where any member not being the Chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and allowances under this section in addition to any remuneration and allowances to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the Chairman).

(e) The office of a member (other than the Chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(5)

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*Sydney Farm Produce Market Authority.*

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(5) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member and any member so appointed shall not, in his capacity as such member, be subject to the provisions of that Act, as so amended, during his term of office.

(6) A member shall be deemed to have vacated his office—

- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- (d) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (e) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is before the expiration of four weeks after the last of such meetings excused by the Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;

(g)

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*Sydney Farm Produce Market Authority.*

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- (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he is removed from office by the Governor;
- (j) if he ceases to hold the qualification by virtue of which he was appointed.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(7) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(8) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in pursuance of subsection six (paragraph (h) excepted) or seven of this section shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

(9) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(b)



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*Sydney Farm Produce Market Authority.*

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(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, as the case may be, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

In respect of a Chairman who contributes to a fund or account as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such Chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as Chairman.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Authority to be body corporate—proceedings of Authority.

(2) The corporate name of the Authority shall be the "Sydney Farm Produce Market Authority".

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

(b) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the member chosen by the members present at the meeting to act as Chairman shall preside at any meeting of the Authority.

(c) Six members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(d) The Chairman or Deputy Chairman or member acting as Chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

(5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7)

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*Sydney Farm Produce Market Authority.*

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(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising.

6. (1) The Authority shall appoint and employ such <sup>Servants.</sup> servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

(3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

7. The regulations may make provision—

<sup>Regulations  
re servants.</sup>

- (a) for and in relation to the control and governance of servants by the Authority; and
- (b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

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*Sydney Farm Produce Market Authority.*

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Amendment  
of Act No.  
15, 1944.  
Second  
Schedule.

**8.** The Crown Employees Appeal Board Act, 1944, as subsequently amended, is amended by inserting at the end of the Second Schedule the words "The Sydney Farm Produce Market Authority".

Authority  
may make  
use of  
certain  
employees  
of the  
Crown,  
statutory  
bodies and  
councils.

**9.** (1) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the services of any of the officers, servants or employees of such statutory body or council.

Payments  
in respect  
of long  
service  
leave on  
death of  
servant.

**10.** (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.

(2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

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PART III.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS  
OF THE AUTHORITY.

11. (1) Subject to this Act, the Authority may within the County of Cumberland provide, maintain, control and manage public markets for the sale or disposal of farm produce and in, upon or in connection with such public markets exercise any powers, authorities, duties or functions conferred or imposed upon it by this Act. Powers, authorities, duties, and functions of the Authority.

Upon the City Markets or any part thereof becoming vested in the Authority, the Authority shall maintain, control and manage the City Markets or part thereof as a place for the sale or disposal of farm produce and any other commodities which were sold or disposed of at the City Markets or part thereof immediately prior to the vesting thereof in the Authority.

Such maintenance, control and management shall cease upon a day to be appointed by the Governor and notified by proclamation, such day being not earlier than the establishment or provision by the Authority of public markets in substitution of the City Markets or part thereof vested in the Authority and adequate in the opinion of the Minister for the sale or disposal of farm produce.

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*Sydney Farm Produce Market Authority.*

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(2) For the purposes of and subject to this Act the Authority is hereby empowered and authorised—

- (a) to exercise the powers and authorities conferred by Part XX of the Local Government Act, 1919, as subsequently amended, upon a council in respect of any public market provided, controlled or managed by the council;
- (b) to acquire land, machinery (including refrigerating machinery and machinery suitable for the ripening of farm produce), plant, goods, chattels and effects;
- (c) to erect, maintain, repair, operate, regulate, use and regulate the use of buildings (including buildings for cold storage and the inspection, sorting and ripening of farm produce) and all machinery and plant used in connection therewith;
- (d) in, upon or in connection with a public market—
  - (i) to construct or arrange for the construction of railway sidings and all necessary appurtenances thereto;
  - (ii) to make, maintain and repair or contribute in aid of the construction, maintenance and repair of roads, market ways, drains and convenient approaches;
- (e) to grant to wholesalers, merchants, producers of farm produce and to other persons a right to use and occupy for the sale and disposal of farm produce or for any other purpose approved by the Authority any portion or portions of a public market; to grant any such right by means of lease, license or permit upon such terms and conditions as may be agreed upon between such persons and the Authority and by or in connection with any such lease, license or permit to charge such rentals, fees, dues or amounts, not exceeding the maximum, if any, prescribed therefor, as may be determined from time to time by the Authority;

(f)

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*Sydney Farm Produce Market Authority.*

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- (f) to charge a fee whenever the Authority—
  - (i) supplies any service, product or commodity;
  - (ii) grants any lease, license or permit;
  - (iii) gives any permission or prepares and issues any document authorising the holder to have access to a public market or to any buildings, improvements or facilities established therein or in connection therewith;
- (g) to sell any farm produce for the owners, agents or consignors thereof in accordance with any arrangement relating to commission or reward which the Authority may make with such owners, agents or consignors;
- (h) to support with or without grant of financial aid and whether or not initiated by the Authority any scheme or activity which in the opinion of the Authority is capable of assisting in the promotion of the sale in any public market of farm produce;
- (i) to provide within or adjacent to a public market shops, stalls or areas for the sale or disposal of commodities other than farm produce or the rendering or performance of services to the public; and
- (j) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, authorities, duties and functions.

12. (1) The Authority may establish committees for the purpose of advising the Authority upon such matters within the scope of the Authority's powers, authorities, duties and functions as may be referred to the committees by the Authority. Committees.

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*Sydney Farm Produce Market Authority.*

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(2) (a) A person may be appointed to any such committee whether or not he is a member of the Authority.

(b) The office of a member of any such committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the committee and such allowances and travelling expenses as the Governor may from time to time determine.

Where any member of any such committee is an officer of the Public Service or of a statutory body representing the Crown, he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees, allowances and travelling expenses under this section in addition to any remuneration to which he is otherwise entitled.

Land—  
how  
acquired.

**13.** The power to acquire land conferred on the Authority by section eleven of this Act shall extend to the acquisition of land whether or not previously appropriated or resumed for any purpose and, in the exercise of that power, the Authority may acquire land by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part.

Resumption.

**14.** (1) For the purposes of this Act the Governor may under the Public Works Act, 1912, as subsequently amended, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty.

(2) (a) The construction, provision and establishment of a public market and the carrying out of any works for any purpose referred to in section eleven of this Act shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as subsequently amended.

(b)



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*Sydney Farm Produce Market Authority.*

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(b) The Authority is empowered to carry out the said work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all necessary steps for the proper execution thereof as the Authority thinks proper.

(c) The provisions of the Public Works Act, 1912, as subsequently amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

(3) Without prejudice to the generality of subsection two of this section, the provisions of section thirty-eight of the Public Works Act, 1912, as subsequently amended, shall apply to and in respect of any contracts referred to in paragraph (b) of subsection two of this section.

15. (1) Notwithstanding the provisions of any other Act but subject to the provisions of this section, as on and from the expiration of six months after the date of publication in the Gazette of a proclamation notifying the appointment of the first members of the Authority no person other than the Authority shall use or permit the use of land or premises situated within the County of Cumberland as and for the purposes of a public market without the written permission of the Authority unless such land or premises was used for such purposes prior to the date of publication in the Gazette of the aforesaid proclamation. Control over use of land for purposes of public market.

(2) Any application for written permission of the Authority to use any land or premises within the County of Cumberland for the purposes of a public market shall be made to the Authority in writing by the owner or occupier of the land or premises and shall supply all such particulars as are prescribed. If an application is made before such particulars have been prescribed, the application shall supply the particulars required by the Authority.

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*Sydney Farm Produce Market Authority.*

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(3) The Authority may approve of the application subject to conditions or disapprove thereof as it may deem proper in the circumstances of the case.

(4) Matters to be considered by the Authority in dealing with any such application shall include the following :—

- (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued, by or under any Act and, if such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under the town and country planning scheme, planning scheme or interim development order concerned;
- (b) the suitability of the applicant and the merits of his application;
- (c) the size, location and accessibility of the proposed site and its suitability for use as a public market;
- (d) the public interest, the distance of such site from the nearest public market and the question as to whether there is any need for a public market at the proposed location;
- (e) the marketing and economic implications of the proposal;
- (f) the trends and any indications of change in the development and operation of the terminal marketing of farm produce in the County of Cumberland;
- (g) the possibility or likelihood of the proposed public market being or becoming prejudicial to the effective exercise, performance or discharge by the Authority of the powers, authorities, duties and functions conferred or imposed upon it by this Act;

(h)

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*Sydney Farm Produce Market Authority.*

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- (h) the interests of producers of farm produce likely to be sold at the proposed public market;
- (i) the interests of persons likely to become sellers of farm produce at such market; and
- (j) any other matters prescribed for consideration by the Authority for the purposes of this section.

(5) The Authority shall not approve or approve subject to conditions any application submitted to it under this section unless use of the land in question for the purposes of a public market conforms with the requirements of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act and any approval of any kind given by the Authority in contravention of this subsection shall have no force or effect.

(6) Any person who contravenes any provision of this section or fails to comply with any condition attached to any approval given under this section shall be guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding four hundred dollars and to a daily penalty for any continuing breach thereof not exceeding eighty dollars per day.

(7) In this section—

“public market” means any place where a number of wholesalers, merchants, auctioneers or other persons congregate for the purpose of selling or disposing of farm produce to the public.

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*Sydney Farm Produce Market Authority.*

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PART IV.

CONSTITUTION OF COMMITTEES.

DIVISION 1.—*Constitution and functions of Staff Joint Committee.*

Staff Joint  
Committee.

**16.** (1) There shall be constituted a joint committee, which shall be called the Staff Joint Committee, and which shall consist of five members as follows :—

- (a) the Director General of the Department of Agriculture or his nominee who shall convene all meetings of the Staff Joint Committee and shall be chairman of the meetings;
- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- (d) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee; and
- (e) the General Secretary of The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division, or, in the absence through sickness or other good cause of the General Secretary, his nominee.

(2) Three members of the Staff Joint Committee, one of whom shall be the Chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Staff Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

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*Sydney Farm Produce Market Authority.*

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**17.** (1) As soon as practicable after it is constituted the Staff Joint Committee shall make determinations as to which of the servants of the Council of the City of Sydney who are wholly or principally employed by the Council at or in connection with the City Markets and with the exercise and discharge of the powers and functions of the Council in relation to such markets undertaking should be transferred to the Authority. Functions  
of the  
Staff Joint  
Committee.

(2) When the Staff Joint Committee has made its determination it shall submit its report and recommendations to the Minister.

**18.** (1) Determinations made by the Staff Joint Committee pursuant to section seventeen of this Act shall be embodied in a proclamation. Transfer  
of staff.

(2) A servant of the Council of the City of Sydney referred to in a proclamation made pursuant to subsection one of this section shall, on and from a day to be appointed (hereinafter referred to as the "appointed day") by proclamation, be transferred to the service of the Authority.

Upon transfer any such servant shall—

- (a) become a servant of the Authority; and
- (b) be paid salary or wages not less than at the rate at which he was employed immediately before the appointed day, until that salary or those wages is or are varied or altered by the Authority:

Provided that such salary or wages shall not be reduced for a period of at least two years from the date of his transfer except to the extent necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) A person so transferred shall on and from the appointed day and until otherwise directed by the Authority continue to perform the duties which attached to his employment before that day.

(4) Subject to subsection five of this section the provisions of subsections two to seven inclusive of section 20c of the Local Government Act, 1919, as subsequently amended, shall, mutatis mutandis, apply to and in respect of a servant transferred pursuant to this section.

For the purposes of such application a reference to "the council of such new or other area" shall be read and construed as a reference to "the Authority".

(5) (a) This subsection applies to and in respect of persons transferred from the service of the Council pursuant to this section, being persons referred to in paragraph (a) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, who, pursuant to paragraph (b) of that subsection, elected to retain the rights and privileges referred to in that paragraph.

(b) Any person to whom this subsection applies, and who becomes entitled to receive a gratuity by virtue of the application of subsection five of section 20c of the Local Government Act, 1919, as subsequently amended, shall not be entitled to receive any compassionate or retiring allowance under any award or industrial agreement referred to in subsection two of the said section 20c :

Provided that the amount payable to any such person as a gratuity to which he becomes entitled as aforesaid shall not in any case be less than the amount which would have been payable to such person as a compassionate or retiring allowance under any such award or industrial agreement if this paragraph had not been enacted.

(c) For the purposes of paragraph (b) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, the services of

any

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*Sydney Farm Produce Market Authority.*

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any person to whom this subsection applies with the Authority to which he is transferred pursuant to this section shall be deemed to be service with the Council of the City of Sydney.

(6) A servant of the Council who at the time of the constitution of the Authority is engaged on service—

(a) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth of Australia, or

(b) as an officer in that force in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

shall for the purposes of this section be deemed to be still in the employ of the Council and such service as well as service with the Council shall be counted as service with the Authority upon transfer thereto.

DIVISION 2.—*Constitution and functions of Finance Joint Committee.*

19. In this Division of this Part except in so far as the Definition. context or subject matter otherwise indicates or requires—

“assets” include land, structures, improvements, plant, equipment and other works of the Council of the City of Sydney situated or installed at the City Markets or used by the Council in connection therewith.

20. (1) There shall be constituted a joint committee, Finance  
Joint  
Committee  
—constitu-  
tion and  
functions. which shall be called the Finance Joint Committee, and which shall consist of five members as follows—

(a) the Auditor-General or his nominee, who shall convene all meetings of the Finance Joint Committee and shall be chairman of the meetings;

(b)

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*Sydney Farm Produce Market Authority.*

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- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- (d) the Director General of the Department of Agriculture, or his nominee; and
- (e) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee.

(2) Three members of the Finance Joint Committee, one of whom shall be the chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Finance Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

(4) The functions of the Finance Joint Committee shall be—

- (a) to determine (by apportionment or otherwise) what assets and rights, and what debts and liabilities of the Council are to be transferred to and become assets, rights, debts and liabilities of the Authority;
- (b) to determine whether the expense of meeting payments on account of leave or upon retirement or termination of employment or death of a servant transferred from the service of the Council to the service of the Authority pursuant to this Act should be apportioned between the Council and the Authority and, if so, how the apportionment should be made;
- (c) to determine what books, documents, records and papers of the Council are to be handed over to the Authority; and
- (d) such other matters as the Finance Joint Committee may consider necessary or expedient in relation to the foregoing.

(5)



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*Sydney Farm Produce Market Authority.*

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(5) Without limiting the generality of subsection four of this section, where the Finance Joint Committee considers that any asset or right or any debt or liability should be wholly or partly transferred to the Authority, the Committee may, instead of determining that the asset or right or the debt or liability be so transferred, determine that a payment shall be made in respect of that asset, right, debt or liability to or by the Authority or to or by the Council, as the case may be.

(6) The Finance Joint Committee may make separate determinations, either before or after the appointed day referred to in subsection two of section eighteen of this Act in respect of all or any of the matters referred to in subsections four and five of this section and shall submit its report and recommendations on any such determination to the Minister.

**21.** (1) Recommendations made by the Finance Joint Committee pursuant to section twenty of this Act shall be embodied in a proclamation or proclamations which may be made at any time either before or after the appointed day referred to in subsection two of section eighteen of this Act. Recommendations of Finance Joint Committee to be embodied in proclamations.

(2) A proclamation made under subsection one of this section shall take effect—

- (a) where it is made on or before the said appointed day—on that day; and
- (b) where it is made after the said appointed day—on the day on which it is made,

or on a later day specified in the proclamation.

(3) A proclamation made under subsection one of this section shall—

- (a) where it is expressed to transfer any asset or right or any debt or liability wholly or partly to the Authority or to transfer any books, documents,

records

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*Sydney Farm Produce Market Authority.*

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- records or papers to the Authority, operate to vest in the Authority that asset or right, or that debt or liability, to the extent therein expressed or to vest in the Authority those books, documents, records or papers;
- (b) where it specifies an amount determined to be paid to the Authority by reason of an apportionment referred to in paragraph (b) of subsection four of section twenty of this Act, operate to create a debt of that amount payable by the Council to the Authority;
  - (c) where it embodies a determination made under paragraph (d) of the said subsection four operate and have effect according to its tenor; or
  - (d) where it specifies an amount to be paid to or by the Authority by reason of a determination made under subsection five of section twenty of this Act, operate to create a debt of that amount payable to or by the Authority or to or by the Council, as the case may be.

(4) Without limiting the generality of subsection three of this section, the following provisions shall, by virtue of this Act, apply in respect of any asset, right, debt or liability vested by a proclamation made under that subsection in the Authority—

- (a) moneys, or liquidated and unliquidated claims which were payable to or recoverable by the Council shall be moneys, liquidated or unliquidated claims payable to or recoverable by the Authority;
- (b) all suits, actions and proceedings pending immediately before the vesting shall be suits, actions and proceedings pending at the suit of the Authority;
- (c) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Council and in force immediately before the

vesting

*Sydney Farm Produce Market Authority.*

- vesting shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority;
- (d) the Authority may pursue the same remedies for the recovery of any moneys and claims and for the prosecution of any such suits, actions and proceedings as the Council might have done immediately before the day of such vesting;
  - (e) the Authority may enforce and realise any security or charge existing immediately before the day of vesting in favour of the Council in respect of any such moneys and claims as if the security or charge were existing in favour of the Authority;
  - (f) all debts due and moneys payable by the Council and all claims liquidated or unliquidated recoverable against the Council immediately before such vesting shall be debts due and moneys payable by and claims recoverable against the Authority; and
  - (g) no attornment by a lessee of any land vested in the Authority by virtue of a proclamation made under this section shall be necessary.

**22.** (1) Where the Minister is satisfied that the Finance Joint Committee has substantially exercised and performed its functions and powers he may notify the Finance Joint Committee that the functions of the Finance Joint Committee shall cease and determine and the Minister may thereafter exercise or perform, in respect of any assets, rights, debts or liabilities that have not been the subject of a determination made by the Finance Joint Committee under subsection four or five of section twenty of this Act, the functions and powers of the Finance Joint Committee.

Minister's  
exercise of  
powers of  
Finance  
Joint  
Committee.

(2) A reference in this Act to the Finance Joint Committee includes, where the Minister exercises or performs any function or power of the Finance Joint Committee pursuant to subsection one of this section, a reference to the Minister.

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*Sydney Farm Produce Market Authority.*


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## PART V.

## FINANCE.

Accounts to  
be kept by  
the  
Authority.

**23.** (1) The Authority shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

Audit of  
accounts.

**24.** (1) The accounts of the Authority shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereinafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, as subsequently amended, shall apply to the Chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and

(b)

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*Sydney Farm Produce Market Authority.*

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(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

**25.** The Authority may invest moneys held in government securities of the Commonwealth of Australia or of the State of New South Wales, or in any securities guaranteed by the Government of the said State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed. Investment  
of funds.

**26.** (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor. Temporary  
accommoda-  
tion.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

**27.** The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor borrow money for— Purposes  
for which  
money  
may be  
borrowed.

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;  
or
- (d) any other purpose of this Act.

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*Sydney Farm Produce Market Authority.*

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Reserves  
for repay-  
ment.

**28.** (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

(3) (a) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of the said State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(c) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of  
**four**

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*Sydney Farm Produce Market Authority.*

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four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, such balance shall form part of the funds of the Authority.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(7) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

**29.** (1) For securing repayment of the principal and interest on any moneys borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. <sup>Debentures, etc.</sup>

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as subsequently amended, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the

interest

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*Sydney Farm Produce Market Authority.*

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interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from such guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of the charge.

Trustees.

**30.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, as subsequently amended.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

Lost  
deben-  
tures.

**31.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof.

(2)



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*Sydney Farm Produce Market Authority.*

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(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

(a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;

(b) such advertisement as the judge may direct has been published;

(c) six months have elapsed since the publication of the last of the advertisements; and

(d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

**32.** (1) A person advancing money to the Authority shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication. Protection of investments.

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*Sydney Farm Produce Market Authority.*

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(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Deben-  
tures and  
bonds to  
rank pari  
passu.

**33.** All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

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PART VI.

GENERAL.

Fixing of  
fees and  
charges.

**34.** (1) Where under the provisions of this Act or any regulation the Authority—

- (a) supplies any service, product or commodity;
- (b) gives any permission;
- (c) prepares and issues any document;
- (d) furnishes any information;
- (e) makes any registration; or
- (f) receives any application for its approval,

the charge or fee therefor may be fixed by regulations or where there is no charge or fee so fixed, then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

(2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, document or information is supplied, given, made or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

**35.** (1) The Governor may make regulations, not Regulations, inconsistent with this Act, for and with respect to—

- (a) any of the powers conferred upon or duties imposed upon the Minister or the Authority;
- (b) regulating the use, letting and occupation of any public market;
- (c) regulating the conduct of persons using or resorting to any public market;
- (d) regulating the presence, use and movement on or in any public market of vehicles of every class or description, and animals;
- (e) regulating the method of selling in any public market;
- (f) preventing and suppressing nuisances and enforcing cleanliness in and in connection with any public market and providing for and regulating the storage, removal, treatment and disposal of garbage, offal and waste therein or therefrom;
- (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (h) fixing any penalties not exceeding one hundred dollars or, in the case of a continuing offence, not exceeding ten dollars per day, for non-compliance with any regulation.

*Sydney Farm Produce Market Authority.*

- (2) The regulations shall—
  - (a) be published in the Gazette;
  - (b) take effect from the date of publication or from a later date to be specified therein;
  - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Judicial notice of seal of the Authority.

**36.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

- (a) shall take judicial notice of the seal of the Authority affixed to any document; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

References to Council of the City of Sydney in other Acts, ordinances, regulations, by-laws, etc.

**37.** Where in any Act other than this Act or in any ordinance, regulation, by-law, proclamation or in any instrument or document relating to or associated with the City Markets and the exercise and discharge by the Council of the City of Sydney of its powers, authorities, duties and functions with respect to such Markets reference, either express or implied, is made to the Council of the City of Sydney or to the Municipal Council of Sydney, such reference shall, except where otherwise expressly provided by this Act, or in so far as the context or subject matter otherwise indicates or requires, be construed as a reference to the Authority.

**38.**

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*Sydney Farm Produce Market Authority.*

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**38.** Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post.

Service of notice of proceedings on the Authority.

**39.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Chairman of the Authority.

Documents—how authenticated.

**40.** (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Recovery of penalty.

(2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

**41.** (1) Any charge, fee, remuneration or money due to the Authority under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction.

Recovery of charges, etc.

(2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899, as subsequently amended;
- (b) section sixty-four of the District Courts Act, 1912, as subsequently amended;
- (c) section twenty-five of the Small Debts Recovery Act, 1912, as subsequently amended.

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*Sydney Farm Produce Market Authority.*

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Proof of  
certain  
matters not  
required.

**42.** In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

Delegation.

**43.** (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution—

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act;
- (d) to any other person approved by the Minister.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Authority.

(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person  
under

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*Sydney Farm Produce Market Authority.*

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under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Authority may by resolution revoke any such delegation.

**44.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section. <sup>Notice of action.</sup>

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

**Provided**

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*Sydney Farm Produce Market Authority.*

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Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this subsection referred to as the “prescribed period”) of twelve months next after the occurring of the cause of action :

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7)



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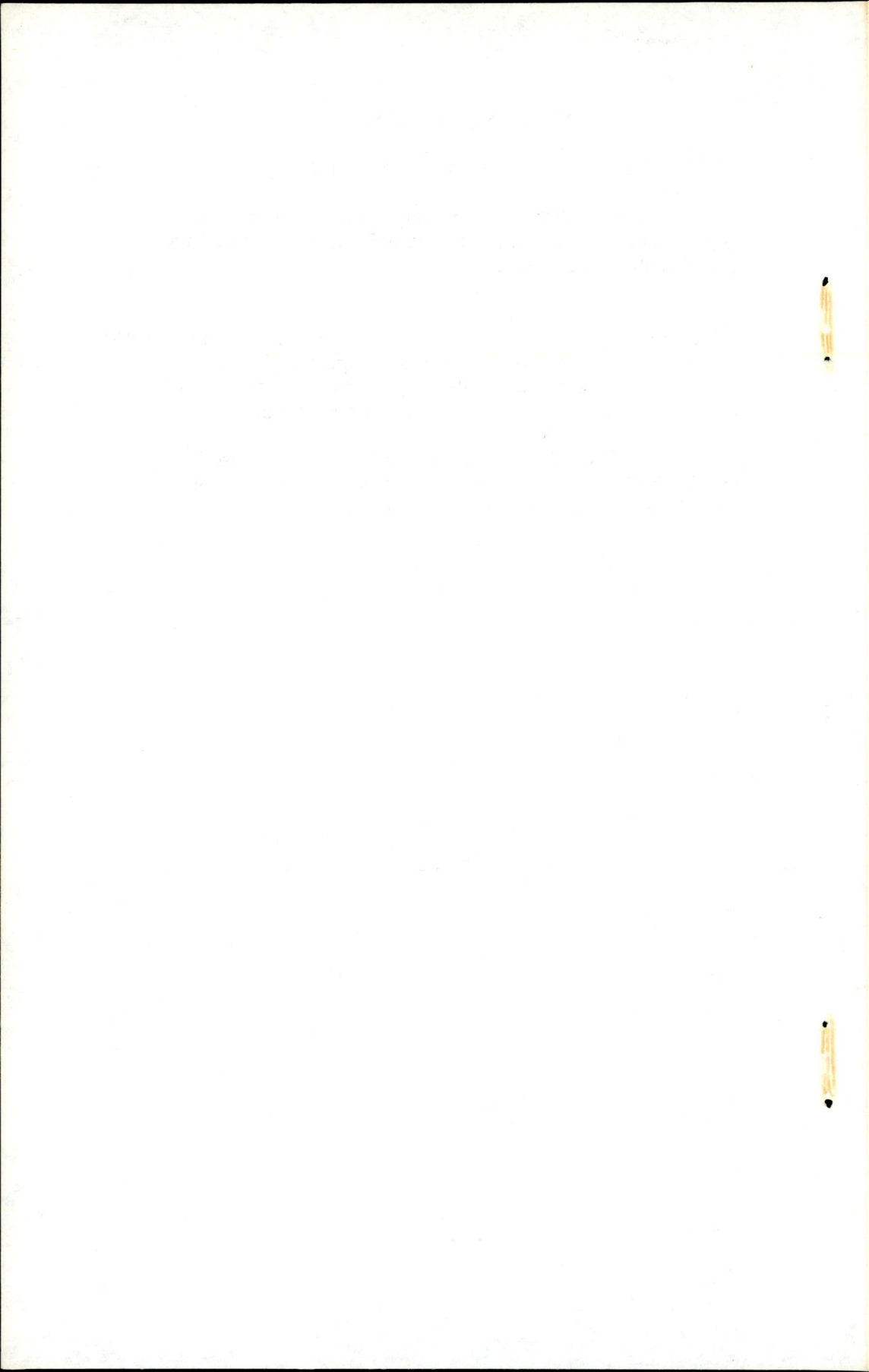
*Sydney Farm Produce Market Authority.*

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(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**45.** (1) As soon as practicable after the thirtieth day of June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid. <sup>Annual report.</sup>

(2) The Minister shall lay such report or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 9 April, 1968.*

## New South Wales



ANNO SEPTIMO DECIMO

ELIZABETHÆ II REGINÆ

\*\*\*\*\*

**Act No. 11, 1968.**

An Act to provide for the constitution of the Sydney Farm Produce Market Authority and to define its powers, authorities, duties and functions; to provide for the transfer to the service of the Authority of certain servants of the Council of the City of Sydney; to vest certain property in the Authority; and for purposes connected therewith. [Assented to, 24th April, 1968.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

L. A. PUNCH,  
*Chairman of Committees of the Legislative Assembly.*

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*Sydney Farm Produce Market Authority.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title  
and com-  
mencement.

1. (1) This Act may be cited as the "Sydney Farm Produce Market Authority Act, 1968".

(2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation.

Division  
into Parts.

2. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—CONSTITUTION OF THE AUTHORITY—*ss.* 4–10.

PART III.—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—*ss.* 11–15.

PART IV.—CONSTITUTION OF COMMITTEES—*ss.* 16–22.

DIVISION 1.—*Constitution and functions of Staff Joint Committee—ss.* 16–18.

DIVISION 2.—*Constitution and functions of Finance Joint Committee—ss.* 19–22.

PART V.—FINANCE—*ss.* 23–33.

PART VI.—GENERAL—*ss.* 34–45.

Interpreta-  
tion.

3. In this Act, except in so far as the context or subject matter otherwise indicates or requires,—

“Authority” means the Sydney Farm Produce Market Authority constituted by and under this Act;

“City

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*Sydney Farm Produce Market Authority.*

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“City Markets” means the public markets established and maintained by the Council of the City of Sydney at Haymarket, Sydney, for the sale of fruit, vegetables and other commodities;

“council” has the meaning ascribed thereto in the Local Government Act, 1919, as subsequently amended;

“farm produce” means vegetables, potatoes and other edible roots and tubers, fruit, eggs, poultry, honey and such other commodities as the Governor may, by regulation, declare to be farm produce;

“land” includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land;

“member” means member of the Authority;

“prescribed” means prescribed by this Act or by the regulations;

“proclamation” means a proclamation of the Governor published in the Gazette;

“public market” means public market provided, maintained, controlled and managed by the Authority and the City Markets or parts thereof maintained, controlled and managed by the Authority;

“regulations” means regulations made under this Act;

“wholesaler” means a person who sells by wholesale any farm produce—

(a) on behalf of producers or other persons whether on commission or for or in expectation of any fee, gain or reward or otherwise; or

(b) on his own behalf;

whether such sale is by auction or otherwise.

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PART

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*Sydney Farm Produce Market Authority.*

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## PART II.

## CONSTITUTION OF THE AUTHORITY.

Constitution  
of Authority

4. (1) (a) There shall be a Sydney Farm Produce Market Authority which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

In the exercise and discharge of such powers, authorities, duties and functions the Authority shall be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of nine members appointed by the Governor. Of the members so appointed—

- (i) one shall be nominated by the Minister;
- (ii) one shall be a person who is an officer within the meaning ascribed to that term by the Local Government Act, 1919, as subsequently amended, and shall be nominated by the Minister for the time being administering that Act;
- (iii) one shall be an officer of the Treasury nominated by the Treasurer;
- (iv) one shall be an officer of a Government Department under the control of the Minister for Transport or of a statutory body representing the Crown under the control of that Minister and shall be nominated by that Minister;
- (v) five shall be nominated by the Minister after consideration of a panel of names submitted to him, in accordance with any request by him, by organisations representing producers of farm produce, wholesalers, consumers and other interests concerned.

(d)

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*Sydney Farm Produce Market Authority.*

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(d) The member appointed pursuant to subparagraph (i) of paragraph (c) of this subsection shall in and by the instrument by which he is appointed be the Chairman of the Authority and that member appointed pursuant to subparagraph (ii), (iii) or (iv) of paragraph (c) of this subsection as the Governor designates shall in and by the instrument by which he is appointed be the Deputy Chairman of the Authority.

(2) (a) A member shall, subject to this Act, be appointed for such term not exceeding five years as may be specified in the instrument of appointment and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

(ii) An appointment to fill a vacant office shall be made on the nomination of the person who nominates the member whose office has become vacant, and where the member whose office has become vacant held the qualification required by subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section the person appointed to the vacant office shall be a person holding the like qualification.

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3) (a) During the illness or absence of the Chairman the Deputy Chairman shall have the immunities, powers, authorities and duties (other than that referred to in paragraph (a) of subsection four of this section) of the Chairman.

(b) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman to act in the place of the Chairman; and all acts or things done or omitted by the  
Deputy

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*Sydney Farm Produce Market Authority.*

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Deputy Chairman while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman.

(4) (a) The Chairman shall devote the whole of his time to the duties of his office.

(b) The Chairman shall receive such annual salary and allowances as the Governor may from time to time determine.

Each member other than the Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

The Deputy Chairman whilst acting as Chairman shall receive such remuneration and allowances as the Governor may from time to time determine.

(c) Where any member not being the Chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and allowances under this section in addition to any remuneration and allowances to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the Chairman).

(e) The office of a member (other than the Chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(5)



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*Sydney Farm Produce Market Authority.*

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(5) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment by the Governor of any member and any member so appointed shall not, in his capacity as such member, be subject to the provisions of that Act, as so amended, during his term of office.

(6) A member shall be deemed to have vacated his office—

- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- (d) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (e) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is before the expiration of four weeks after the last of such meetings excused by the Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as subsequently amended;

(g)

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*Sydney Farm Produce Market Authority.*

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- (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he is removed from office by the Governor;
- (j) if he ceases to hold the qualification by virtue of which he was appointed.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(7) The Governor may, for any cause which appears to him sufficient, remove any member from office.

(8) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman from any cause whatsoever, otherwise than in pursuance of subsection six (paragraph (h) excepted) or seven of this section shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

(9) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as subsequently amended.

(b)

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*Sydney Farm Produce Market Authority.*

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(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as subsequently amended, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as subsequently amended, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927, as subsequently amended, as the case may be, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

In respect of a Chairman who contributes to a fund or account as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such Chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as Chairman.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Authority  
to be body  
corporate—  
proceed-  
ings of  
Authority.

(2) The corporate name of the Authority shall be the "Sydney Farm Produce Market Authority".

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

(b) The Chairman, or in the absence of the Chairman, the Deputy Chairman, or in the absence of the Chairman and Deputy Chairman, the member chosen by the members present at the meeting to act as Chairman shall preside at any meeting of the Authority.

(c) Six members shall form a quorum and any duly convened meeting of the Authority at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

(d) The Chairman or Deputy Chairman or member acting as Chairman at any meeting of the Authority shall, in the event of an equality of votes, have in addition to a deliberative vote a second or casting vote.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

(5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7)

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*Sydney Farm Produce Market Authority.*

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(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising.

6. (1) The Authority shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

(3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

7. The regulations may make provision—

Regulations  
re servants.

- (a) for and in relation to the control and governance of servants by the Authority; and
- (b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

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*Sydney Farm Produce Market Authority.*

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Amendment  
of Act No.  
15, 1944.  
Second  
Schedule.

**8.** The Crown Employees Appeal Board Act, 1944, as subsequently amended, is amended by inserting at the end of the Second Schedule the words "The Sydney Farm Produce Market Authority".

Authority  
may make  
use of  
certain  
employees  
of the  
Crown,  
statutory  
bodies and  
councils.

**9.** (1) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the services of any of the officers, servants or employees of such statutory body or council.

Payments  
in respect  
of long  
service  
leave on  
death of  
servant.

**10.** (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.

(2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

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PART III.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS  
OF THE AUTHORITY.

**11.** (1) Subject to this Act, the Authority may within the County of Cumberland provide, maintain, control and manage public markets for the sale or disposal of farm produce and in, upon or in connection with such public markets exercise any powers, authorities, duties or functions conferred or imposed upon it by this Act.

Powers,  
authorities,  
duties, and  
functions  
of the  
Authority.

Upon the City Markets or any part thereof becoming vested in the Authority, the Authority shall maintain, control and manage the City Markets or part thereof as a place for the sale or disposal of farm produce and any other commodities which were sold or disposed of at the City Markets or part thereof immediately prior to the vesting thereof in the Authority.

Such maintenance, control and management shall cease upon a day to be appointed by the Governor and notified by proclamation, such day being not earlier than the establishment or provision by the Authority of public markets in substitution of the City Markets or part thereof vested in the Authority and adequate in the opinion of the Minister for the sale or disposal of farm produce.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) For the purposes of and subject to this Act the Authority is hereby empowered and authorised—

- (a) to exercise the powers and authorities conferred by Part XX of the Local Government Act, 1919, as subsequently amended, upon a council in respect of any public market provided, controlled or managed by the council;
- (b) to acquire land, machinery (including refrigerating machinery and machinery suitable for the ripening of farm produce), plant, goods, chattels and effects;
- (c) to erect, maintain, repair, operate, regulate, use and regulate the use of buildings (including buildings for cold storage and the inspection, sorting and ripening of farm produce) and all machinery and plant used in connection therewith;
- (d) in, upon or in connection with a public market—
  - (i) to construct or arrange for the construction of railway sidings and all necessary appurtenances thereto;
  - (ii) to make, maintain and repair or contribute in aid of the construction, maintenance and repair of roads, market ways, drains and convenient approaches;
- (e) to grant to wholesalers, merchants, producers of farm produce and to other persons a right to use and occupy for the sale and disposal of farm produce or for any other purpose approved by the Authority any portion or portions of a public market; to grant any such right by means of lease, license or permit upon such terms and conditions as may be agreed upon between such persons and the Authority and by or in connection with any such lease, license or permit to charge such rentals, fees, dues or amounts, not exceeding the maximum, if any, prescribed therefor, as may be determined from time to time by the Authority;
- (f)



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*Sydney Farm Produce Market Authority.*

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- (f) to charge a fee whenever the Authority—
  - (i) supplies any service, product or commodity;
  - (ii) grants any lease, license or permit;
  - (iii) gives any permission or prepares and issues any document authorising the holder to have access to a public market or to any buildings, improvements or facilities established therein or in connection therewith;
- (g) to sell any farm produce for the owners, agents or consignors thereof in accordance with any arrangement relating to commission or reward which the Authority may make with such owners, agents or consignors;
- (h) to support with or without grant of financial aid and whether or not initiated by the Authority any scheme or activity which in the opinion of the Authority is capable of assisting in the promotion of the sale in any public market of farm produce;
- (i) to provide within or adjacent to a public market shops, stalls or areas for the sale or disposal of commodities other than farm produce or the rendering or performance of services to the public; and
- (j) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its powers, authorities, duties and functions.

**12.** (1) The Authority may establish committees for the purpose of advising the Authority upon such matters within the scope of the Authority's powers, authorities, duties and functions as may be referred to the committees by the Authority. <sup>Committees.</sup>

(2)

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*Sydney Farm Produce Market Authority.*

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(2) (a) A person may be appointed to any such committee whether or not he is a member of the Authority.

(b) The office of a member of any such committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the committee and such allowances and travelling expenses as the Governor may from time to time determine.

Where any member of any such committee is an officer of the Public Service or of a statutory body representing the Crown, he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees, allowances and travelling expenses under this section in addition to any remuneration to which he is otherwise entitled.

Land—  
how  
acquired.

**13.** The power to acquire land conferred on the Authority by section eleven of this Act shall extend to the acquisition of land whether or not previously appropriated or resumed for any purpose and, in the exercise of that power, the Authority may acquire land by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part.

Resumption.

**14.** (1) For the purposes of this Act the Governor may under the Public Works Act, 1912, as subsequently amended, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty.

(2) (a) The construction, provision and establishment of a public market and the carrying out of any works for any purpose referred to in section eleven of this Act shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as subsequently amended.

(b)

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*Sydney Farm Produce Market Authority.*

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(b) The Authority is empowered to carry out the said work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all necessary steps for the proper execution thereof as the Authority thinks proper.

(c) The provisions of the Public Works Act, 1912, as subsequently amended, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

(3) Without prejudice to the generality of subsection two of this section, the provisions of section thirty-eight of the Public Works Act, 1912, as subsequently amended, shall apply to and in respect of any contracts referred to in paragraph (b) of subsection two of this section.

15. (1) Notwithstanding the provisions of any other Act but subject to the provisions of this section, as on and from the expiration of six months after the date of publication in the Gazette of a proclamation notifying the appointment of the first members of the Authority no person other than the Authority shall use or permit the use of land or premises situated within the County of Cumberland as and for the purposes of a public market without the written permission of the Authority unless such land or premises was used for such purposes prior to the date of publication in the Gazette of the aforesaid proclamation.

Control  
over use  
of land for  
purposes  
of public  
market.

(2) Any application for written permission of the Authority to use any land or premises within the County of Cumberland for the purposes of a public market shall be made to the Authority in writing by the owner or occupier of the land or premises and shall supply all such particulars as are prescribed. If an application is made before such particulars have been prescribed, the application shall supply the particulars required by the Authority.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The Authority may approve of the application subject to conditions or disapprove thereof as it may deem proper in the circumstances of the case.

(4) Matters to be considered by the Authority in dealing with any such application shall include the following :—

- (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued, by or under any Act and, if such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under the town and country planning scheme, planning scheme or interim development order concerned;
- (b) the suitability of the applicant and the merits of his application;
- (c) the size, location and accessibility of the proposed site and its suitability for use as a public market;
- (d) the public interest, the distance of such site from the nearest public market and the question as to whether there is any need for a public market at the proposed location;
- (e) the marketing and economic implications of the proposal;
- (f) the trends and any indications of change in the development and operation of the terminal marketing of farm produce in the County of Cumberland;
- (g) the possibility or likelihood of the proposed public market being or becoming prejudicial to the effective exercise, performance or discharge by the Authority of the powers, authorities, duties and functions conferred or imposed upon it by this Act;
- (h)

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*Sydney Farm Produce Market Authority.*

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- (h) the interests of producers of farm produce likely to be sold at the proposed public market;
- (i) the interests of persons likely to become sellers of farm produce at such market; and
- (j) any other matters prescribed for consideration by the Authority for the purposes of this section.

(5) The Authority shall not approve or approve subject to conditions any application submitted to it under this section unless use of the land in question for the purposes of a public market conforms with the requirements of any town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act and any approval of any kind given by the Authority in contravention of this subsection shall have no force or effect.

(6) Any person who contravenes any provision of this section or fails to comply with any condition attached to any approval given under this section shall be guilty of an offence against this Act and shall be liable upon summary conviction to a penalty not exceeding four hundred dollars and to a daily penalty for any continuing breach thereof not exceeding eighty dollars per day.

(7) In this section—

“public market” means any place where a number of wholesalers, merchants, auctioneers or other persons congregate for the purpose of selling or disposing of farm produce to the public.

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PART

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*Sydney Farm Produce Market Authority.*

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## PART IV.

## CONSTITUTION OF COMMITTEES.

DIVISION 1.—*Constitution and functions of Staff Joint Committee.*Staff Joint  
Committee.

**16.** (1) There shall be constituted a joint committee, which shall be called the Staff Joint Committee, and which shall consist of five members as follows :—

- (a) the Director General of the Department of Agriculture or his nominee who shall convene all meetings of the Staff Joint Committee and shall be chairman of the meetings ;
- (b) the Chairman of the Authority or his nominee ;
- (c) the Under Secretary of the Department of Local Government, or his nominee ;
- (d) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee ; and
- (e) the General Secretary of The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division, or, in the absence through sickness or other good cause of the General Secretary, his nominee.

(2) Three members of the Staff Joint Committee, one of whom shall be the Chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Staff Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

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*Sydney Farm Produce Market Authority.*

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**17.** (1) As soon as practicable after it is constituted the Staff Joint Committee shall make determinations as to which of the servants of the Council of the City of Sydney who are wholly or principally employed by the Council at or in connection with the City Markets and with the exercise and discharge of the powers and functions of the Council in relation to such markets undertaking should be transferred to the Authority.

Functions  
of the  
Staff Joint  
Committee.

(2) When the Staff Joint Committee has made its determination it shall submit its report and recommendations to the Minister.

**18.** (1) Determinations made by the Staff Joint Committee pursuant to section seventeen of this Act shall be embodied in a proclamation.

Transfer  
of staff.

(2) A servant of the Council of the City of Sydney referred to in a proclamation made pursuant to subsection one of this section shall, on and from a day to be appointed (hereinafter referred to as the "appointed day") by proclamation, be transferred to the service of the Authority.

Upon transfer any such servant shall—

- (a) become a servant of the Authority; and
- (b) be paid salary or wages not less than at the rate at which he was employed immediately before the appointed day, until that salary or those wages is or are varied or altered by the Authority :

Provided that such salary or wages shall not be reduced for a period of at least two years from the date of his transfer except to the extent necessary to give effect to any fluctuation in a basic or minimum wage by reference to which his salary or wages is or are fixed.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) A person so transferred shall on and from the appointed day and until otherwise directed by the Authority continue to perform the duties which attached to his employment before that day.

(4) Subject to subsection five of this section the provisions of subsections two to seven inclusive of section 20c of the Local Government Act, 1919, as subsequently amended, shall, mutatis mutandis, apply to and in respect of a servant transferred pursuant to this section.

For the purposes of such application a reference to "the council of such new or other area" shall be read and construed as a reference to "the Authority".

(5) (a) This subsection applies to and in respect of persons transferred from the service of the Council pursuant to this section, being persons referred to in paragraph (a) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, who, pursuant to paragraph (b) of that subsection, elected to retain the rights and privileges referred to in that paragraph.

(b) Any person to whom this subsection applies, and who becomes entitled to receive a gratuity by virtue of the application of subsection five of section 20c of the Local Government Act, 1919, as subsequently amended, shall not be entitled to receive any compassionate or retiring allowance under any award or industrial agreement referred to in subsection two of the said section 20c :

Provided that the amount payable to any such person as a gratuity to which he becomes entitled as aforesaid shall not in any case be less than the amount which would have been payable to such person as a compassionate or retiring allowance under any such award or industrial agreement if this paragraph had not been enacted.

(c) For the purposes of paragraph (b) of subsection two of section twelve of the Local Government (Areas) Act, 1948, as subsequently amended, the services of  
any



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*Sydney Farm Produce Market Authority.*

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any person to whom this subsection applies with the Authority to which he is transferred pursuant to this section shall be deemed to be service with the Council of the City of Sydney.

(6) A servant of the Council who at the time of the constitution of the Authority is engaged on service—

(a) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth of Australia, or

(b) as an officer in that force in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

shall for the purposes of this section be deemed to be still in the employ of the Council and such service as well as service with the Council shall be counted as service with the Authority upon transfer thereto.

*DIVISION 2.—Constitution and functions of Finance Joint Committee.*

**19.** In this Division of this Part except in so far as the Definition. context or subject matter otherwise indicates or requires—

“assets” include land, structures, improvements, plant, equipment and other works of the Council of the City of Sydney situated or installed at the City Markets or used by the Council in connection therewith.

**20.** (1) There shall be constituted a joint committee, Finance Joint Committee which shall be called the Finance Joint Committee, and which shall consist of five members as follows—

(a) the Auditor-General or his nominee, who shall —constitution and functions. convene all meetings of the Finance Joint Committee and shall be chairman of the meetings;

(b)

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*Sydney Farm Produce Market Authority.*

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- (b) the Chairman of the Authority or his nominee;
- (c) the Under Secretary of the Department of Local Government, or his nominee;
- (d) the Director General of the Department of Agriculture, or his nominee; and
- (e) the Town Clerk of the Council of the City of Sydney or, in the absence through sickness or other good cause of the Town Clerk, his nominee.

(2) Three members of the Finance Joint Committee, one of whom shall be the chairman, shall form a quorum.

(3) Where the voting on any question at a meeting of the Finance Joint Committee is equal, the chairman shall, in addition to his deliberative vote, have a second or casting vote.

(4) The functions of the Finance Joint Committee shall be—

- (a) to determine (by apportionment or otherwise) what assets and rights, and what debts and liabilities of the Council are to be transferred to and become assets, rights, debts and liabilities of the Authority;
- (b) to determine whether the expense of meeting payments on account of leave or upon retirement or termination of employment or death of a servant transferred from the service of the Council to the service of the Authority pursuant to this Act should be apportioned between the Council and the Authority and, if so, how the apportionment should be made;
- (c) to determine what books, documents, records and papers of the Council are to be handed over to the Authority; and
- (d) such other matters as the Finance Joint Committee may consider necessary or expedient in relation to the foregoing.

(5)

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*Sydney Farm Produce Market Authority.*

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(5) Without limiting the generality of subsection four of this section, where the Finance Joint Committee considers that any asset or right or any debt or liability should be wholly or partly transferred to the Authority, the Committee may, instead of determining that the asset or right or the debt or liability be so transferred, determine that a payment shall be made in respect of that asset, right, debt or liability to or by the Authority or to or by the Council, as the case may be.

(6) The Finance Joint Committee may make separate determinations, either before or after the appointed day referred to in subsection two of section eighteen of this Act in respect of all or any of the matters referred to in subsections four and five of this section and shall submit its report and recommendations on any such determination to the Minister.

21. (1) Recommendations made by the Finance Joint Committee pursuant to section twenty of this Act shall be embodied in a proclamation or proclamations which may be made at any time either before or after the appointed day referred to in subsection two of section eighteen of this Act.

Recommendations of Finance Joint Committee to be embodied in proclamations.

(2) A proclamation made under subsection one of this section shall take effect—

- (a) where it is made on or before the said appointed day—on that day; and
- (b) where it is made after the said appointed day—on the day on which it is made,

or on a later day specified in the proclamation.

(3) A proclamation made under subsection one of this section shall—

- (a) where it is expressed to transfer any asset or right or any debt or liability wholly or partly to the Authority or to transfer any books, documents,

records

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*Sydney Farm Produce Market Authority.*

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records or papers to the Authority, operate to vest in the Authority that asset or right, or that debt or liability, to the extent therein expressed or to vest in the Authority those books, documents, records or papers;

- (b) where it specifies an amount determined to be paid to the Authority by reason of an apportionment referred to in paragraph (b) of subsection four of section twenty of this Act, operate to create a debt of that amount payable by the Council to the Authority;
- (c) where it embodies a determination made under paragraph (d) of the said subsection four operate and have effect according to its tenor; or
- (d) where it specifies an amount to be paid to or by the Authority by reason of a determination made under subsection five of section twenty of this Act, operate to create a debt of that amount payable to or by the Authority or to or by the Council, as the case may be.

(4) Without limiting the generality of subsection three of this section, the following provisions shall, by virtue of this Act, apply in respect of any asset, right, debt or liability vested by a proclamation made under that subsection in the Authority—

- (a) moneys, or liquidated and unliquidated claims which were payable to or recoverable by the Council shall be moneys, liquidated or unliquidated claims payable to or recoverable by the Authority;
- (b) all suits, actions and proceedings pending immediately before the vesting shall be suits, actions and proceedings pending at the suit of the Authority;
- (c) all contracts, agreements and undertakings entered into with and all securities lawfully given to or by the Council and in force immediately before the vesting

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*Sydney Farm Produce Market Authority.*

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- vesting shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority;
- (d) the Authority may pursue the same remedies for the recovery of any moneys and claims and for the prosecution of any such suits, actions and proceedings as the Council might have done immediately before the day of such vesting;
  - (e) the Authority may enforce and realise any security or charge existing immediately before the day of vesting in favour of the Council in respect of any such moneys and claims as if the security or charge were existing in favour of the Authority;
  - (f) all debts due and moneys payable by the Council and all claims liquidated or unliquidated recoverable against the Council immediately before such vesting shall be debts due and moneys payable by and claims recoverable against the Authority; and
  - (g) no attornment by a lessee of any land vested in the Authority by virtue of a proclamation made under this section shall be necessary.

**22.** (1) Where the Minister is satisfied that the Finance Joint Committee has substantially exercised and performed its functions and powers he may notify the Finance Joint Committee that the functions of the Finance Joint Committee shall cease and determine and the Minister may thereafter exercise or perform, in respect of any assets, rights, debts or liabilities that have not been the subject of a determination made by the Finance Joint Committee under subsection four or five of section twenty of this Act, the functions and powers of the Finance Joint Committee.

Minister's  
exercise of  
powers of  
Finance Joint  
Committee.

(2) A reference in this Act to the Finance Joint Committee includes, where the Minister exercises or performs any function or power of the Finance Joint Committee pursuant to subsection one of this section, a reference to the Minister.

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PART

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*Sydney Farm Produce Market Authority.*

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## PART V.

## FINANCE.

Accounts to  
be kept by  
the  
Authority.

**23.** (1) The Authority shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Authority.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

Audit of  
accounts.

**24.** (1) The accounts of the Authority shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereinafter to be in force relating to the audit of public accounts; and the Audit Act, 1902, as subsequently amended, shall apply to the Chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of Public Departments.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of moneys payable to the Authority;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised;
- (iii) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and

(b)

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*Sydney Farm Produce Market Authority.*

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(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of such audit the Authority shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

**25.** The Authority may invest moneys held in government securities of the Commonwealth of Australia or of the State of New South Wales, or in any securities guaranteed by the Government of the said State, or on call or on fixed deposit or partly on call and partly on fixed deposit with the Treasurer or with any bank, or in such other securities as the Governor may approve or as may be prescribed.

**26.** (1) For the temporary accommodation of the Authority it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Authority's funds to such extent as may from time to time be approved by the Governor.

(2) The Treasurer may advance such moneys to the Authority upon such terms and conditions as to repayment and interest as may be agreed upon.

**27.** The Authority may, from time to time, with the concurrence of the Treasurer and the approval of the Governor borrow money for—

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any loan or any indebtedness to the Treasurer or to any bank;  
or
- (d) any other purpose of this Act.

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*Sydney Farm Produce Market Authority.*

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Reserves  
for repay-  
ment.

**28.** (1) The Authority shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

(2) The Authority shall during each year transfer to each such fund from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

(3) (a) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of the said State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(c) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sum otherwise payable to the reserve for loan repayment in respect of that loan, the Authority shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of  
four



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*Sydney Farm Produce Market Authority.*

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four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, such balance shall form part of the funds of the Authority.

(6) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(7) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

**29.** (1) For securing repayment of the principal and interest on any moneys borrowed, the Authority may as provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities. <sup>Debentures, etc.</sup>

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Authority in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as subsequently amended, contained in the Second Schedule to that Act.

(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Authority of the  
interest

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*Sydney Farm Produce Market Authority.*

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interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Authority from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from such guarantee shall be payable out of moneys provided by Parliament.

(c) The charge created by paragraph (a) of this subsection shall not prejudice or affect the power of the Authority to sell or convey any property vested in it free of the charge.

Trustees.

**30.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Authority, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, as subsequently amended.

(2) Any debenture issued or stock inscribed by the Authority shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Authority or by any servant of the Authority in relation to any debenture or coupon issued or stock inscribed by the Authority.

Lost  
deben-  
tures.

**31.** (1) If any debenture or bond issued by the Authority is lost or destroyed or defaced before it has been paid, the Authority may, subject to the provisions of this section, issue a new debenture or bond in lieu thereof.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Authority to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Authority for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed or defaced coupon.

**32.** (1) A person advancing money to the Authority shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication. Protection of investments.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Authority shall, in favour of a lender and of any holder of a security given by the Authority, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Deben-  
tures and  
bonds to  
rank pari  
passu.

**33.** All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Authority shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

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**PART VI.**

**GENERAL.**

Fixing of  
fees and  
charges.

**34.** (1) Where under the provisions of this Act or any regulation the Authority—

- (a) supplies any service, product or commodity ;
- (b) gives any permission ;
- (c) prepares and issues any document ;
- (d) furnishes any information ;
- (e) makes any registration ; or
- (f) receives any application for its approval,

the charge or fee therefor may be fixed by regulations or where there is no charge or fee so fixed, then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by the regulations.

(2) In the regulations or in any such resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3)

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*Sydney Farm Produce Market Authority.*

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(3) The charge or fee shall be paid to the Authority by the person to whom or at whose request the service, product, commodity, permission, document or information is supplied, given, made or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

**35.** (1) The Governor may make regulations, not Regulations, inconsistent with this Act, for and with respect to—

- (a) any of the powers conferred upon or duties imposed upon the Minister or the Authority;
- (b) regulating the use, letting and occupation of any public market;
- (c) regulating the conduct of persons using or resorting to any public market;
- (d) regulating the presence, use and movement on or in any public market of vehicles of every class or description, and animals;
- (e) regulating the method of selling in any public market;
- (f) preventing and suppressing nuisances and enforcing cleanliness in and in connection with any public market and providing for and regulating the storage, removal, treatment and disposal of garbage, offal and waste therein or therefrom;
- (g) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- (h) fixing any penalties not exceeding one hundred dollars or, in the case of a continuing offence, not exceeding ten dollars per day, for non-compliance with any regulation.

(2)

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*Sydney Farm Produce Market Authority.*

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(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

(3) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Judicial  
notice of  
seal of the  
Authority.

**36.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

- (a) shall take judicial notice of the seal of the Authority affixed to any document; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

References  
to Council  
of the City  
of Sydney  
in other  
Acts,  
ordinances,  
regulations,  
by-laws, etc.

**37.** Where in any Act other than this Act or in any ordinance, regulation, by-law, proclamation or in any instrument or document relating to or associated with the City Markets and the exercise and discharge by the Council of the City of Sydney of its powers, authorities, duties and functions with respect to such Markets reference, either express or implied, is made to the Council of the City of Sydney or to the Municipal Council of Sydney, such reference shall, except where otherwise expressly provided by this Act, or in so far as the context or subject matter otherwise indicates or requires, be construed as a reference to the Authority.

**38.**

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*Sydney Farm Produce Market Authority.*

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**38.** Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post. Service of notice of proceedings on the Authority.

**39.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the Chairman of the Authority. Documents—how authenticated.

**40.** (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalty.

(2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

**41.** (1) Any charge, fee, remuneration or money due to the Authority under the provisions of this Act or the regulations may be recovered as a debt in a court of competent jurisdiction. Recovery of charges, etc.

(2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899, as subsequently amended;
- (b) section sixty-four of the District Courts Act, 1912, as subsequently amended;
- (c) section twenty-five of the Small Debts Recovery Act, 1912, as subsequently amended.

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*Sydney Farm Produce Market Authority.*

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Proof of  
certain  
matters not  
required.

**42.** In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c) the appointment of any member or any servant of the Authority;
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

Delegation.

**43.** (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution—

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act;
- (d) to any other person approved by the Minister.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Authority.

(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person

**under**



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*Sydney Farm Produce Market Authority.*

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under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Authority may by resolution revoke any such delegation.

**44.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section. <sup>Notice of action.</sup>

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

Provided

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*Sydney Farm Produce Market Authority.*

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Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period (in this subsection referred to as the "prescribed period") of twelve months next after the occurring of the cause of action :

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

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*Sydney Farm Produce Market Authority.*

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(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

**45.** (1) As soon as practicable after the thirtieth day of June in each year, the Authority shall prepare and furnish to the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid. <sup>Annual report.</sup>

(2) The Minister shall lay such report or cause it to be laid, before both Houses of Parliament as soon as practicable after receipt by him of the report.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 24th April, 1968.*

Sydney Farm Produce Market Authority

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