



**The Nagaland Agricultural Produce Marketing (Development and Regulation)
Act, 2005**

Act 5 of 2005

Keyword(s):

Agricultural Produce, Agriculturist, Buyer, Broker, Commission Agent, Contract Farming, Contract Farming Producer, Contract Farming Agreement, Deputy Export, Exporter, Import, Importer, Market, Market Area, Market Charges, Market Committee, Market Functio

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**THE NAGALAND AGRICULTURAL PRODUCE
MARKETING (DEVELOPMENT AND
REGULATION) ACT, 2005**

(Act No. 5 of 2005)

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**THE NAGALAND AGRICULTURAL PRODUCE
MARKETING (DEVELOPMENT AND
REGULATION) ACT, 2005**

(Act No. 5 of 2005)

Received the assent of the Governor on 20.07.05 and published in
the Nagaland Gazette Extra-Ordinary dated 08. 09. 2005

An

Act

to provide for establishment, improvement, development and regulation of markets and marketing systems for agricultural produce in the State of Nagaland including processing and export thereof and for matters connected therewith or incidental thereto.

Be it enacted by the Nagaland Legislative Assembly in the fifty-sixth year of the Republic of India as follows :

Chapter - 1

PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Nagaland Agricultural Produce Marketing (Development and Regulation) Act, 2005.
- (2) It extends to the whole of Nagaland
- (3) It shall come into force at once.

2. Definitions

In this Act, unless the context otherwise requires, -

- (1) "agricultural produce" means all produce and commodities, whether processed or unprocessed, of agriculture, horticulture, apiculture, sericulture, livestock including products of livestock

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like fleeces (raw wool), skins of animals etc., as well as forest products as are specified in the schedule or declared by the Government, by notification, from time to time and further includes combination of two or more such produce or commodities;

- (2) **“agriculturist”** means a person who is a resident of the notified area of the market and who is engaged in production of agricultural produce by himself or by hired labour or otherwise, but does not include any market functionary and, in case of any doubt in this behalf, the decision of the Deputy Commissioner of the District in which the person is engaged in the production or growth of the agricultural produce shall be final;
- (3) **“bill”** means bill issued by the traders as prescribed;
- (4) **“board”** means the Nagaland State Agricultural Marketing Board established under Section 60 of this Act;
- (5) **“business”** means purchase, sale, processing, value addition, storage, transportation and all connected activities relating to agricultural produce;
- (6) **“buyer”** means a person or a firm or a company or a co-operative Society or a Government Agency or a public undertaking or a Corporation or a commission agent, or a combination of more than one of those bodies, who himself or on behalf of any other person or agent, buys or agrees to buy agricultural produce in the market area as notified under this Act;

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- (7) **“bye-law”** means a bye-law made by the Market Committee under this Act and Rules that may be made;
- (8) **“broker”** means an agent who, in consideration of a commission merely negotiates and brings about a contract for his principal trader but does not receive, deliver, transport or pay for the purchase of, or collect the payment for, the sale of notified agricultural produce;
- (9) **“commission agent”** means a person who, on behalf of his principal trader, and in consideration of a commission or a percentage of the amount involved in such transaction, buys agricultural produce and makes payment, keeps it in his custody and delivers it to the principal trader in due course, or who receives and takes in his custody agricultural produce, sends for sale within the market area or from outside the market area, sells the same in the market area and collects payments thereof from the buyer and remits the sale proceeds to his principal trader;
- (10) **“contract farming”** means farming by a person called contract farming producer under a written agreement with another person called contract farming sponsor to the effect that the farmer will sell his farm produce to the latter as per terms of a written agreement;
- (11) **“contract farming producer”** means individual agriculturist or association of agriculturist or a Village Council or a similar body in whom the ownership or control of agricultural lands vests temporarily or permanently, who, by written agreement, agrees to sell his/its agricultural produce to a contract farming sponsor;

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- (12) **“contract farming agreement”** means the agreement made for contract farming between contract farming producer and contract farming sponsor;
- (13) **“Deputy Commissioner”** means the Deputy Commissioner of the District or any Officer empowered to discharge the duties of the Deputy Commissioner under the provision of this Act;
- (14) **“direct marketing”** means selling and buying of the agricultural produces by the producers and buyers directly to and from, the entrepreneurs, company or dealers, producers without processing the transactions through normal market regulatory systems;
- (15) **“Director”** means the person appointed by the State Government as Director of Agricultural Marketing and includes any Officer performing his functions under the orders of the said Government;
- (16) **“export”** means dispatch of agricultural produce to a place outside India under the laws in force;
- (17) **“exporter”** means a person or a firm who or which exports agricultural produce;
- (18) **“import”** means bringing agricultural produce from outside India to a place in Nagaland through a place or places in India under the laws in force;
- (19) **“importer”** means a person or a firm who or which imports agricultural produce from outside India;

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- (20) **“market”** means a market established under section 4 of this Act which includes market area, market yards and sub-market yards and market committee;
- (21) **“market area”** means area notified under Section 4 of this Act;
- (22) **“market charges”** mean and include charges on account of, or in respect of, commission, brokerage, weighing, measuring, loading and unloading and carrying, cleaning, drying, sieving, stitching, stacking, hiring of bags, stamping, bagging, storing, warehousing, grading, surveying, transporting, processing and other activities directly or indirectly connected to the purposes of this Act;
- (23) **“market committee”** means the Agricultural Produce Market Committee (APMC) established under this Act;
- (24) **“market functionary”** means a trader, a commission agent, buyer, helper, processor, a stockist and such other person as may be declared under the rules or bye-laws to be a market functionary;
- (25) **“market yard”** in relation to a market area means a specified place and includes any enclosure, building or locality declared as such in any market area by the State Government or the Director/Member-Secretary/Managing Director by notification;
- (26) **“marketing”** means all activities involved in the flow of the agricultural produce from the production point commencing from the stage of harvest till these reach the ultimate consumers viz, grading, processing, storage,

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transport, channels of distribution and all other functions involved in the process;

- (27) **“Member-Secretary”** means the Member-Secretary of the Nagaland State Agricultural Marketing Board, who is the Chief Executive Officer of the Board, so appointed by the State Government under this Act;
- (28) **“notified agricultural produce”** means any agricultural produce notified under section 4 of this Act;
- (29) **“Private market yard”** means such place other than the market yard/sub-market yard in the market area where infrastructure has been developed and managed by a person for marketing of notified agricultural produce holding a license for this purpose under this Act;
- (30) **“Processing”** means any one or more of a series of treatments relating to powdering, crushing, decorticating, dehusking, polishing, pressing, curing, or any other manual, mechanical, chemical, or physical treatment to which raw agricultural produce or its product is subjected to;
- (31) **“processor”** means a person who undertakes processing of any notified agricultural produce on his own accord or on payment of a charge;
- (32) **“registration”** means any registration done under this Act;
- (33) **“regulation”** means a regulation made by the Board/ Director or Member-Secretary, in accordance with the provision of this Act;

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- (34) **“retail sale”** in relation to a notified agricultural produce means a sale not exceeding such quantity as the Market Committee may, by bye-law, determine to be a retail sale in respect thereof;
- (35) **“rule”** means a rule made under this Act by the State Government;
- (36) **“Secretary”** means, the Chief Executive Officer of the Market Committee appointed under Section 36 of this Act;
- (37) **“seller”** means a person who sells or agrees to sell any agricultural produce;
- (38) **“special market”** means a market notified as such and includes a market for special commodities;
- (39) **“State Government”** means all or any of the functionaries which includes the Chief Minister, the Minister in-charge of Agriculture, the Secretary or any other officer in-charge of the Department of Agriculture, by whatever designation, the Director of the Agricultural Marketing, the Member-Secretary of the Nagaland Agricultural State Marketing Board or any other officer entrusted with duties to carry out the purposes of this Act;
- (40) **“sub-market yard”** in relation to a market area means a specified place other than market yard and includes any enclosure, building or locality, declared as such in any market area by the State Government or the Director/ Member-Secretary by notification;

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- (41) **“trader”** means a person who in his normal course of business, buys or sells any notified agricultural produce, and includes a person engaged in processing of agricultural produce;
- (42) **“transportation”** means conveying agricultural produce by a vehicle drawn by man, animal or any other power from one place to another in the course of its marketing;
- (43) **“transporter”** means a person or a firm who or which transports the agricultural produce;
- (44) **“value addition”** means any activity performed like processing, grading, packing etc., in relation to a agricultural produce by which the market value of the produce is increased; and
- (45) **“year”** means the year as may be notified by the Government from time to time.

Chapter - II

ESTABLISHMENT OF MARKETS

3. Notification of intention of developing and regulating marketing of notified agricultural produce in specified area (s):-

- (1) Upon a representation made by any person, Local Authority or by the growers of any agricultural produce within the area for which a market is proposed to be established or

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otherwise, the State Government or the Director/Member-Secretary may, by notification or in such other manner as may be prescribed, declare its intention of developing and regulating the marketing of such agricultural produce as may be specified in the notification.

- (2) A notification under sub-section (1) shall state that any objection or suggestion which may be received by the State Government or the Director or the Member Secretary within a period of not less than 45 days, to be specified in the notification shall be considered by the State Government or Director or Members-Secretary.

4. Declaration of market area and development and regulation of marketing of notified agricultural produce

After the expiry of the period specified in the notification issued under section 3 and after considering such objection and suggestions as may be received before expiry of such period and making such inquiries, if any as may be necessary, the State Government or the Director/Member-Secretary may, by notification declare the area specified in the notification issued under Section 3 or any portion thereof to be market area for the purpose of this Act and that marketing of all or any of the kinds of agricultural produce specified in the notification issued under section 3 shall be developed and regulated under this Act in such market area.

5. Market yards, sub-Market yards, Farmers/Consumer Market and Private Market:-

- (1) In every market area, there may be :

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- (i) market yard managed by the market committee.
 - (ii) one or more than one sub-market yards managed by Market Committee.
 - (iii) One or more than one private market yards/private markets managed by a person other than a Market Committee.
- (2) The State Government shall, as soon as may be, after issue of notification under Section 4, by notification, declare any specified place including any structure, enclosure, open place, or locality in the market area to be a market yard or sub-market yard, as the case may be.

6. Notification of intention to alter limits of or to amalgamate or to split up market areas or to de-establish a market:-

- (1) The State Government may, by notification signify its intention:
- (i) to alter the limits of a market area by including within it other area in the vicinity thereof or by excluding thereof an area comprised therein; or
 - (ii) to amalgamate two or more market areas and constitute a Market Committees thereof;
 - (iii) to split up a market area and to constitute two or more Market Committee thereof;
 - (iv) to de-establish a market, or
 - (v) to modify the list of agricultural produce to be regulated in the market area.

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- (2) Every notification issued under sub-section (1) shall define the limits of the area which is intended to be included in or excluded from a market area, or of the market area intended to be amalgamated into one, or of the area of each of the markets intended to be constituted after splitting up an existing market area or of the area of the market intended to be de-established, as the case may be, and shall also specify the period which shall not be less than 45 days within which objections, if any, shall be received by the State Government.

7. Procedures subsequent to notification under section 6 :

- (1) Any inhabitant of the market area or of the areas affected by the notification issued under sub-section (1) of section 6 if he objects to anything contained therein, may submit his objections in writing to the State Government within the period specified for this purpose in the said notification.
- (2) When the period specified in the said notification has expired and the State Government has considered and passed orders on such objection as may have been submitted to it within the said period, the State Government may, by notification;
 - (a) include the area or any part thereof in the market area or exclude it therefrom; or
 - (b) constitute a new Market Committees for the market area amalgamated; or
 - (c) split up an existing market area and constitute two or more Market Committees for such areas, as the case may be; or

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- (d) de-establish the market; or
- (e) publish modified list of agricultural produce to be regulated in the market.

8. Effect of alteration of limits

Where a notification under section 6 has been issued excluding any area from the market area and including any such area in any other market area, the State Government shall after consulting the market committee involved, frame a scheme to determine what portion of the assets and other properties vested in one market committee shall vest in the other market committee and in what manner the liabilities of the market committees shall be apportioned between the two market committees and such scheme shall come into force on the date of publication in the gazette.

9. Powers of State Government to issue consequential order with respect to constitution of Market Committees on alteration of limits, amalgamation or splitting up etc.,

- (1) where a notification under section has been issued, the State Government may pass such consequential orders as it may deem fit in respect of :
 - (i) where a notification is issued under sub-section (2), of section 7 excluding an area from any market area and such excluded area is not declared to be separate market area or a notification is issued under sub-section (2), including any area within the market area, the market committee constituted for such market area before the date of such exclusion or inclusion shall, notwithstanding anything

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contained in this Act, continue to be the market committee for the said market area until the reconstitution of such market committee under this Act.

- (ii) In the event of amalgamation of dissolved market committee, the committee-in-charge shall consist of the following members, namely :-
- (a) a Chairman to be nominated by the State Government
 - (b) five representatives of agriculturists to be nominated by the State Government;
 - (c) one representative of Traders to be nominated by the State Government
 - (d) an officer each from the Departments of Agriculture/ Agriculture Marketing, Horticulture, Veterinary & Animal Husbandry, Fishery, Co-operation Department working in the district; to be nominated on the recommendation of the Directors concerned,
 - (e) one member of the Weighmen operating in the market area holding licence from the Market Committee to be nominated by the Department of Legal Metrology and Consumer Protection;
 - (f) one representative of the local Authority of the headquarter of the committee (Chairman of Municipal/ Town Council);
- (iii) where in case of split up of a market committee each committee in-charge consisting of a Chairman, five

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representatives of agriculturists and a representative of traders shall be constituted:

- (a) Provided that the Chairman of the dissolved market committee shall be nominated to be the Chairman of the newly established market committee of which he is a voter or for the other market committee. The State Government shall nominate a Chairman who possesses the qualifications prescribed in sub-section (1) of Section 15;
- (b) representative of agriculturists of dissolved market committee shall also be nominated as members of newly established market committee and remaining representatives of the agriculturists shall be nominated by the State Government who possess the qualifications prescribed in the Rules of this Act;
- (c) representative of trader of the dissolved market committee shall be nominated as a member of the newly established market committee and for the other market committee, the State Government shall nominate such licensed trader as representative of traders who possesses the qualifications prescribed in the Rules of this Act;
- (d) an officer each from the Departments of Agriculture/ Agricultural marketing, Horticulture, Veterinary and Animal Husbandry, Fishery, Co-operation Department working in the district to be nominated on the recommendation of the Directors concerned;

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- (e) one member of the weighmen to be nominated by the Director of Legal Metrology and Consumer Protection.
- (f) one representative of the Local Authority of the place where the Market Committee is located (Chairman of Municipal/Town Council);

The Committee-in-charge constituted under sub-section (1) shall, subject to the control of the Director/Member- Secretary, exercise all the powers and perform all the duties of the Market Committee under this Act.

- (2) The Provisions of Section 14 shall apply to the Constitution of a Market Committee under sub-section (1) as they apply to the constitution of a market committee for a market established for the first time.

Chapter - III

CONSTITUTION OF MARKET COMMITTEE.

10. Establishment of Market Committee and its incorporation

- (1) For every market areas there shall be a Market Committee having jurisdiction over the entire market area.
- (2) Every market committee shall be a body corporate by such name as the State Government may by notification, specify. It shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall subject

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to such restrictions as are imposed by or under this Act, be competent to conduct and to acquire, hold, lease, sell or otherwise transfer any property and to do all other things necessary for the purpose for which it is established.

Provided that no immovable property shall be acquired or transferred by way of sale, lease or otherwise without the prior permission of the State Government.

- (3) Notwithstanding anything contained in any enactment for the time being in force, every Market Committee shall for all purposes, be deemed to be a local authority.

11. Vesting of property of local authority in Market Committee

- (1) The Market Committee may require a local authority to transfer to it any land or building belonging to the local authority which is situated within the market area and which immediately before the establishment of the market was being used by the local authority for the purposes of the market and the local authority shall within one month of the receipt of the requisition, transfer the land and or building, as the case may be, to the Market Committee on such terms as may be agreed between them.
- (2) Where within a period of thirty days from the date of receipt of requisition by the local authority under sub-section (1) no agreement is reached between the local authority and the Market Committee under the said sub-section, the land or building required by the market committee shall vest in the Market Committee for the purposes of this Act and the

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local authority shall be paid such compensation as may be determined by the Deputy Commissioner under sub-section(5)

Provided that no compensation shall be payable to a local authority in respect of any land or building which had been vested in it by virtue of the provision contained in the enactment relating to the constitution of such local authority without payment of any amount whatsoever may be, for such vesting.

Provided further that, any party aggrieved by the order of the Deputy Commissioner may, within thirty days from the date of such order, appeal to the State Government.

- (3) The Local Authority shall deliver possession of the land or building vesting in the Market Committee under sub-section (2) within a period of seven days from such vesting and on failure of the Local Authority to do so, within the period aforesaid, the Deputy Commissioner shall take possession of the land or building and cause it to be delivered to the Market Committee.
- (4) The order of the State Government and subject to that order, the order of the Deputy Commissioner under sub-section (2) shall be final and binding on both the parties.
- (5) The Deputy Commissioner shall fix the amount of compensation for the land or building having regards to :
 - (i) the annual rent for which the building might reasonably be expected to be let from year to year;

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- (ii) the condition of the building;
 - (iii) the amount of compensation paid by the Local Authority for the acquisition of such land; and
 - (iv) the cost of the present value of any building erected or other work executed on the land by the Local Authority.
- (6) The compensation fixed under sub-section (5) may, at the option of the market committee, be paid in lump sum or in such number of equal installments not exceeding ten as the Deputy Commissioner may fix. Where the compensation is paid in installment, it shall carry interest at the rate of six per cent per annum which shall be payable along with installments.

12. Acquisition of Land for market Committee

- (1) When any land within the market area is required for the purposes of this Act and the Board or the Market Committee is unable to acquire it by agreement, the State Government may, at the request of the Board or the Market Committee, as the case may be, proceed to acquire such land under the provisions of the Nagaland Land Acquisition and Requisition Act, 1965 and on the payment of the compensation awarded under that Act by the Board or Market Committee and of any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Board or the Market Committee, as the case may be,

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Provided that once a proposal is made by the Market Committee, it shall not be withdrawn by it except for such reasons as may be approved by the State Government.

- (2) The Board or the Market Committee shall not, without the previous sanction of the State Government transfer any land which has been acquired for this purpose by the Board or the Market Committee under sub-section(1) or divert such land to a purpose other than the purpose for which it has been acquired.

13. Appointment of Officers-in-charge of Market Committee pending constitution of Market Committee

- (1) (i) When a Market Committee is established for the first time under this Act, the State Government shall by an order appoint; a person to be the officer in-charge, for a period not exceeding two years or a Committee-in-charge for a period not exceeding two years. The members of the Market Committee may be appointed from among persons representing the same interests and in the same proportion as specified in Section 14. The officer in-charge or the Committee-in-charge shall subjects to the control of the Director / Members Secretary, exercise all the powers and perform all the duties of the Market Committee under this Act;

Provided that the State Government or the Director may at any time during the period aforesaid appoint Committee-in-charge in place of officer in-charge or officer in-charge in place of Committee in-charge as the case may

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be. The Committee or officer in-charge so appointed shall hold office or shall function for the remainder of the period available to its predecessor;

Provided further that in the event of death, resignation, leave or suspension of the officer in-charge, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled, as soon as may be, by appointment of a person there to by the State Government and until such appointment is made, a person nominated by Director/Member Secretary shall act as officer-in-charge.

Provided that if the Market Committee is constituted before the expiry of the period aforesaid the officer-in-charge shall cease to hold office or the Committee-in-charge shall cease to function on the date appointed for the first general meeting of the newly constituted Market Committee.

- (2) In the event of vacancy occurring on account of death, resignation or otherwise of the members of the Market Committee in-charge, the vacancy shall be filled in by fresh appointment by the State Government.
- (3) Any officer in-charge or any or all persons appointed as the Committee in-charge under clause (i) of sub-section (i) may at any time be removed by the State Government and shall appointed another person or persons, as the case may be, in his or their place or places.

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- (4) Every person appointed as officer-in-charge under sub-section (1) shall receive from the Market Committee fund, for his services, such honorarium and allowances as may be fixed by the State Government/Board and every member of the Committee-in-charge shall be entitled to receive from the Market Committee fund, allowances at such rate at which allowances are payable to members of the Market Committee.

14. Composition of Market Committee

- (1) Save as provided in Section 13, every Market Committee shall consist of the following members, namely;
- (i) five members shall be agriculturists possessing such qualifications as may be prescribed in the Rules of this Act, of which not less than two shall be women, to be nominated by the State Government;
 - (ii) one member shall be a licensed trader to be nominated by the State Government;
 - (iii) an officer each from the Departments of Agriculture/ Agricultural marketing, Horticulture, Veterinary and Animal Husbandry, Fishery, Co-operation Department working in the district to be nominated on the recommendation of the Directors concerned;
 - (iv) one member of the Weighmen operating in the market area(s) to be nominated by the Director of the legal metrology and consumer production;

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- (v) one representative of the Local Authority of the place where the Market Committee is located (Chairman of Municipal/Town Council);

the committee in-charge constituted under sub-section(1) shall, subject to the control of the Director/Member Secretary, exercise all the powers and perform all the duties of the Market Committee under this Act.

- (2) Members of every Market Committee shall hold office for a period of five years from the date of the first general meeting of the Market Committee.
- (3) If within the period mentioned in sub-section (2) the Market Committee is not newly constituted, the Market Committee shall on expiry of such period, be deemed to have been dissolved.
- (4) A member of the Market Committee may resign his office at any time by a letter in writing addressed to the Director/Member Secretary to that effect and his office shall become vacant on expiry of fifteen clear days from the date of such resignation unless within the said period of fifteen days he withdraws the resignation by another letter in writing addressed to the Director/Member Secretary.
- (5) In the event of the death, resignation or removal of a member before the expiry of his term of office, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled as soon as may be by nomination, of a person thereto as a member, who shall take office forthwith and shall hold such office for the

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unexpired term of his predecessor, provided that no casual vacancy shall be filled which occurs within a period of four months preceeding the date on which his term expires.

- (6) The chairman and other members of the Market Committee shall be paid from the Market Committee fund such honorarium, sitting fees, traveling allowances and other allowances as may be fixed by the State Government/Board from time to time.

15. Chairman of the Market Committee

- (1) Every Market Committee shall have a chairman who shall be elected from amongst the members who are representative of agriculturists.
- (2) The Market Committee shall elect the Chairman at its first general meeting, which shall be convened by the Director or Member Secretary within one month of issue of notification by the State Government constituting the Market Committee. The Chairman so elected shall hold office for the full term from the date on which he enters upon the office.
- (3) The Chairman shall hold office until the expiry of his term of office or continue to hold office until his successor enters upon the office.
- (4) The meeting convened for the election of the Chairman shall be presided over by the Director or Member Secretary or any Officers authorized by him in his behalf. The Director/Member Secretary or such officer, when presiding over

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the meeting, has the same powers as the Chairman of the Market Committee, but shall not have the right to vote.

- (5) If in the election of a Chairman there is an equality of vote, the result of the election shall be decided by lots to be drawn in the presence of the Officer presiding in such manner as he may determine.
- (6) In the event of dispute, arising as to the validity of the election of a Chairman, the Deputy Commissioner or the Member Secretary, if he is the presiding officer shall decide the dispute himself and in any other case, the officer presiding over the election shall refer the dispute to the Deputy Commissioner/Board for decision. The decision of the Deputy Commissioner/ Board shall be final, and no suit or other proceeding shall lie in any court of Law in respect of such decision.

16. Resignation and vacancy in Market Committee

- (1) A member holding office of Chairman may resign his office at any time in writing addressed to the Director/Member Secretary and the office shall become vacant on the expiry of fifteen clear days from the date of such resignation, unless within the said period of fifteen days he withdraws his resignation in writing addressed to the Director or the Member Secretary.
- (2) Every Chairman shall vacate office if he ceases to be a member of the Market Committee.
- (3) During the vacancy caused by death, resignation, removal or otherwise in the office of the Chairman, such member of

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the Market Committee as the State Government or the Board may appoint, shall exercise the powers and perform the functions of the Chairman till the Chairman is duly elected.

17. No confidence motion

- (1) A motion of no confidence may be moved against the Chairman at a meeting specially convened for the purpose under sub-section (2) and if the motion is carried by a majority of not less than two-thirds of the members of the Committee, he ceases to be the Chairman.
- (2) For the purposes of sub-section (1) a meeting of the Market Committee shall be held in the prescribed manner within thirty days of receipt of the notice of motion of no confidence.
- (3) The chairman shall not preside over the meeting, but such meeting shall be presided over by an officer of the Government as the Director/Member Secretary may appoint for the purpose. However the Chairman, shall have the right to speak and otherwise to take part in the proceedings of the meeting.
- (4) If the motion of no confidence is not carried out as aforesaid or if the meeting could not be held for want of quorum, notice of any subsequent motion expressing want of confidence in the same Chairman, shall not be made until the expiry of six months from the date of such meeting.

18. Seizure and taking possession of records and property of Market Committee under certain conditions.

- (1) Where the Director/Member Secretary is satisfied that the books and records of a Market Committee are likely to be suppressed or tampered with or destroyed or the funds and property of a Market Committee are likely to be misappropriated or misapplied, the Director/Member Secretary may order for seizure and taking possession of the records and property of the Market Committee.
- (2) On receipt of the order under sub-section (1), a Police officer not below the rank of sub-Inspector of the local area shall enter and search any place where the records and property are kept or are likely to be kept and to seize them and hand over possession thereof to the Director/Member Secretary or the person authorized by him, as the case may be.

Chapter - IV

CLASSIFICATION OF MARKET AND SPECIAL MARKET

19. Classification of Markets

The State Government may classify the market constituted under Section 4, into various categories on the basis of the criteria as may be prescribed.

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20. Special Market for special commodities

- (1) The State Government may by notification declare any market area as 'Special Market' or Special Commodity Market after consideration of such aspects as turnover, serving large area and special infrastructure requirements of particular commodity to be operated in addition to the existing market.
- (2) Save as provided under sub-section (1) of section 14, the States Government may by notification, establish separate Market Committee for effective implementation of provisions of this Act for such markets which are notified as special market under sub-section (1).
- (3) All provisions for and in relation to the Market Committee made in the Act shall *mutatis mutandis* apply to the Market Committee established for the special market under sub-section (1).

21. Constitution of Market Committee for Special Market

- (1) Save as provided under sub-section (1) of section 14, every Market Committee for special market shall consist of the following members, namely;
 - (i) five agriculturists to be nominated by the State Government from the amongst the agriculturists (residing in Nagaland);
 - (ii) three traders to be nominated by the State Government from amongst the traders holding trading license in any Market Committee in the State and out of the Trader so

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nominated at least two shall hold the license from the market committee of the notified special Market;

- (iii) Chairman of the Municipal/town Council or his nominee of the area where the Special Market is located;
- (iv) the Deputy Commissioner or his nominee of the district in which Special market is located;
- (v) The Chief Town Planner or his nominee;
- (vi) Director/Member Secretary of the State Agricultural Marketing Board;
- (vii) Executive Member to be appointed by the State Government who shall act as Secretary of the Special Market Committee; and
- (viii) the agricultural Marketing Advisor to the Government of India or his nominee.

- (2) The Market Committee shall meet at least once in six months.

22. Chairman for Special Market

The Market Committee for special market shall have a Chairman who shall be nominated by the State Government for such period as may be specified. The members shall hold office at the pleasure of the State Government.

23. Secretary for Special Market Committee

Executive member of the market committee shall act as the Secretary of the special market. He shall :

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- (i) exercise supervision and control over the officers and staff of the Market Committee in matters of executive administration concerning accounts and records and disposal of all questions relating to the services of the officers and staff of the Market Committee as per the prescribed procedure;
- (ii) appoint officers and staff of the Market Committee as per direction and procedures prescribed by the market committee;
- (iii) incur expenditure from the Market Committee fund for the sanctioned items of work;
- (iv) in cases of emergency, direct the execution or stoppage of any work and doing of any act which requires the sanction of the Market Committee;
- (v) launch prosecution for violation of provisions of this Act, rules and bye-laws made thereof;
- (vi) issue licences to the market functionaries operating in the market;
- (vii) Prepare annual budget of the market committee;
- (viii) arrange for summoning the meetings of the Market Committee and maintenance of records of the proceedings of such meetings;
- (ix) inspect from time to time the construction work undertaken by the Market Committee and send report of such inspection to the Chairman of the market committee;

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- (x) report such acts of the market committee or members of the Market Committee including the chairman which are contrary to the provisions of this Act, rules and bye-laws framed thereof to the Director of Marketing; and
- (xi) take such steps as deemed necessary for effective discharge of the functions and decisions of the Market Committee.

Chapter - V

Conduct of business, powers and duties of market committee

24. Meeting of the Market Committee

- (1) Subject to the provisions of this Act, the Market Committee shall conduct its business as may be prescribed.
- (2) A Market Committee shall meet for the transaction of its business at least once in every month, provided that the Market Committee may in special circumstances meet at anytime and at any place in the market area as may be prescribed.
- (3) The Chairman shall preside over the meeting of Market Committee and if he is absent, one of the members present in the meeting as may be chosen by the members present, may act as the Chairman.

25. Powers and duties of the Market Committee

- (1) Subject to the provisions of this Act, it shall be the duty of the Market Committee:-

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- (i) to implement the provisions of this Act, the rules and the bye-laws made thereunder in the market area;
 - (ii) to provide such facilities for marketing of agricultural produce therein as the Director/Member Secretary/Board or the State Government may from time to time direct;
 - (iii) to do such other acts as may be required in relation to the superintendence, direction and control of market or regulating marketing of agricultural produce in any place in the market area, and for the purposes connected with the matters aforesaid, and for that purpose may exercise such powers and discharge such functions as may be provided by or under this Act; and
 - (iv) to do all other acts to bring about complete transparency in pricing system and transactions taking place in the market area.
- (2) Without prejudice to the generality of the forgoing provisions, the market committee may:-
- (i) maintain and manage the market yards and sub-market yards within the market areas;
 - (ii) provide the necessary facilities for the marketing of agricultural produce within the market yards and outside the market yards and within the sub-market yards and outside the sub-market yards in the market area;
 - (iii) register or refuse registration to market functionaries and renew, suspend or cancel such registration, supervise the

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- conduct of the market functionaries and enforce conditions of registration;
- (iv) regulate or supervise the auction of notified agricultural produce in accordance with the provisions and procedure laid down under the rules made under this Act or bye-laws of the market committee;
- (v) conduct or supervise the auction of notified agricultural produce in accordance with the procedure laid down under the rules made under this Act or bye-laws of the market committee;
- (vi) regulate the making, carrying out and enforcement or cancellation of agreements of sales, weighmen, delivery, payment and all other matters relating to the market of notified agricultural produce in the manner prescribed;
- (vii) provide for the settlement of all disputes between the seller and the buyer arising out of any kind of transaction connected with the marketing of notified agricultural produce and all matters ancillary thereto;
- (viii) take all possible steps to prevent adulteration of notified agricultural produce;
- (ix) make arrangements for employing by rotation, weighmen and helpers for weighing and transporting goods in respect of transactions held in the market yard and sub-yards;
- (x) set up and promote public private partnership in management of the agricultural markets;

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- (xi) to promote public private partnership for carrying out extension activities in its area viz., collection, maintenance and dissemination of information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce;
- (xii) take measures for the prevention of purchases and sales below the minimum support prices as fixed by the Government from time to time;
- (xiii) levy, take, recover and receive rates, charges, fees and other sums of money to which the Market Committee is entitled;
- (xiv) employ the necessary number of officers and servants for the efficient implementation of the provisions of this Act, the Rules and the Bye-Laws as prescribed;
- (xv) regulate the entry of persons and vehicles, traffic into the market yard and sub-market yard vesting in the Market Committee;
- (xvi) prosecute persons for violating the provisions of this Act, the Rules and the Bye-Laws and compound such offences;
- (xvii) acquire land and dispose of any movable or immovable property for the purpose of efficiently carrying out its duties;
- (xviii) impose penalties on persons who contravene the provisions of this Act, the Rules or the Bye-Laws or the orders or directions issued under this Act, the Rules or the

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Bye-Laws by the Market Committee, its Chairman or by any Officer duly authorized in this behalf;

- (xix) institute or defend any suit, prosecution, action, proceeding, application or arbitration and compromise such suit, action, proceeding, application or arbitration;
- (xx) pay pension, allowances, gratuities, contribution towards leave allowances, pensions or provident fund of the officers and servants employed by the Market committee in the manner prescribed;
- (xxi) administer Market Committee Fund referred to in section 58 and maintain the account thereof in the prescribed manner;
- (xxii) keep a set of standard weights and measure in each principal market yard and sub-market yard against which weight and measurement may be checked;
- (xxiii) inspect and verify scales, weights and measures in use in a market area and also the books of accounts and other documents maintained by the market functionaries in such manner as may be prescribed;
- (xxiv) arrange to obtain fitness(health) certificate from veterinary doctor in respect of animals, cattle, birds etc., which are bought or sold in the market yards/market area;
- (xxv) carry out publicity about the benefits of regulation, the system of transaction, facilities provided in the market yard etc. through such means as poster, pamphlets, hoardings, cinema slides, film shows, group meetings, electronic media

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- etc., or through any other means considered more effective or necessary;
- (xxvi) ensure payment in respect of transactions which take place in the market yard to be made on the same day to the seller, and in default to seize the agricultural produce in question along with other property of the person concerned and to arrange for re-sale thereof and in the event of loss, to recover the same from the original buyer together with charges for recovery of the losses, if any, from the original buyer and effect payment of the prices of the agricultural produce to the seller;
- (xxvii) recover the charges in respect of weighmen and distribute the same to weighmen if not paid by the purchaser/ seller as the case may be;
- (xxviii) with the prior sanction of the State Government Board undertake the constructions of godowns, roads and such other infrastructure in the market yard/sub-yard and market area as may be required to facilitate movement of agricultural produce to the market for benefit of producer, sellers and traders operating in the market area;
- (xxix) collect and maintain information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce and disseminate such information as directed by the Director;
- (xxx) with a view to maintain stability in the market:
 - (a) take suitable measures to ensure that traders do not buy agricultural produce beyond their capacity and

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avoid risk to the sellers in disposing of the produce;
and

(b) grant licences only after obtaining necessary capacity
of the buyers;

(xxxix) to promote and undertake agricultural processing
including activity for value addition in agriculture produce.

(3) With the prior sanction of the State Government/Board,
the Market Committee may undertake the following works:

(i) construction of roads, godowns and other infrastructure in
the market area to facilitate marketing of agricultural produce
and for the purpose give, grant or advance funds to the
Board, the Public Works Department or any other agency
authorized by the Board.

(ii) maintain stocks of fertilizers, pesticides, improved seeds,
agricultural equipments, inputs for sale;

(iii) to provide on rent storage facilities for stocking of
agricultural produce to agriculturists.

(4) In addition to above, the market committee shall also be
responsible for:

(i) the maintenance of proper checks on all receipts and
payment by its officers;

(ii) the proper execution of all works chargeable to the Market
Committee Fund;

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- (iii) keeping a copy of this Act and of the rules and notifications issued thereunder and of its bye-laws, open to inspection free of charge at its office; and
- (iv) arranging for preventive measures against spread of contagious cattle disease.

26. Publishing data of agricultural produce

To publish and circulate from time to time the data of arrivals and rates of agricultural produces standard-wise and brought into the market area for sale as may be prescribed.

27. Appointment of Sub-committee and delegation of powers

Subject to such conditions and restrictions as may be prescribed, the market committee may appoint sub-committees consisting of one or more of its members for the performance of any of its duties or functions for reporting or for giving opinion on any matter and may delegate to any such sub-committee such of its powers as may be necessary.

28. Power to borrow

- (1) A Market Committee may with the previous sanction of the Board, raise money or issue debentures required for carrying out the purpose for which it is established on the security of any property vested in it and of any fees levied by it under this Act.
- (2) The Market Committee may, for the purpose of meeting the initial expenditure on lands, building, staff and equipments

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required for establishing the market, obtain a loan from the State Government or Marketing Board or other financial institution.

- (3) The conditions subject to which money or loan under sub-section (2) shall be raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the State Government or the Board.

29. Compounding of offences

- (1) The market committee may accept from any person who has committed or is reasonably suspected of having committed (other than contravention of section 39) against this Act or the rules or bye-laws by way of compounding of such offence:
 - (a) where the offence consists of the failure to pay or the evasion of any fee, or other amount recoverable under this Act or the rules or the bye-laws, in addition to the fee or other amount so recoverable a sum of money not less than the amount of the fee or other amount and not more than five times the amount of fee or other amount to the maximum extent of rupees five thousand; and
 - (b) in other cases a sum of money not exceeding rupees five thousand.
- (2) On the compounding of any offence under sub-section (1), no proceeding shall be taken or continued against the person concerned in respect of such an offence, and if any proceedings in respect of that offence have already been instituted against him in any court, the compounding shall have effect of his, acquittal.

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30. Power to write off irrecoverable fees

The Market Committee may write off any fee or amount whatsoever due to it, whether under a contract or otherwise, or any amount payable in addition therewith, if in its opinion such fees or an amount is irrecoverable: Provided that the Market Committee shall, before writing off any such fee or amount, obtain the sanction of the Board, if the fee or amount exceeds rupees fifty thousand.

31. Power to remove encroachment

- (1) Any officer or servant of the market committee whom the Board has empowered in this behalf shall have the power to remove any encroachment in a space in the market yard and the expenses of such removal shall be paid by the person who has caused the said encroachment.
- (2) Existence of encroachment in market yard will be treated as a misconduct of a Committee, if it does not resolve to remove it and also of the Chairman, or the Member Secretary if they fail to remove it after resolution of the Committee.

32. Use of weighing instruments, weights, measures, their inspection and seizure

- (1) Only such weighing instruments which satisfy the requirements of such weights and measures as are prescribed by the State Weights and Measures Act and rules made thereunder shall be used for weighing or measuring agricultural produce in a notified market area;

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Provided that in transactions of sale and purchase of agricultural produces in the principal market yard and sub-market yards of the notified market area the beam scale or platform scale or electronic balance shall only be used.

- (2) Every committee shall keep in the market yard at least one weighing instrument of the capacity of one quintal and two sets of weights and in places where measures are used to be measured, verified and stamped in accordance with the provisions of the State Weights and Measures Act and the rules framed thereunder. The committee shall cause such weights and measures to be tested and verified once in the course of each calendar year through the agency appointed and in accordance with the requirements of the said Act and Rules.
- (3) The Market Committee shall allow any person to check, free of charge any weights and measure in his possession against the weights and measures maintained under this section.
- (4) Weighing instruments, weights and measures kept by the committee under this section may at any time be inspected, examined and checked by the Director or the Member Secretary or any other officer duly authorized in this behalf by the Director/Member Secretary and after such inspection, the inspecting authority may give such directions as it may deem proper to the Committee which shall comply with such directions.
- (5) The Director/Member Secretary or the Market Committee and any other person authorized in this behalf by the Director:

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or Member Secretary or Market Committee shall be entitled at any time and without previous notice to inspect, examine and test, any weighing instruments, weights or measures used, kept or possessed within a notified market area by a licence under the Act, and every such licensee in possession of any such weighing instrument, weights or measures shall, when required, be bound to produce the same before the person entitled to inspect, examine and test it.

- (6) Any person authorized to inspect, examine and test any weighing instrument, weights or measures under sub-section (5) shall, while so acting, have all the powers of an Inspector of Weights and Measures appointed under the State Weights and Measures Act.

33. Mode of making a contract

- (1) Subject to the provision of this Act, no contract or agreement on behalf of the Market Committee for the purchase, sale, lease, mortgage or other transfer of, or acquisition of interest in immovable property shall be executed except with the sanction of the market committee.

Provided that in such cases where the powers under this sub-section in respect of any matter are delegated to a sub-committee, sanction of the sub-committee shall be obtained.

- (2) Save as provided in sub-section (1),
 - (i) the Secretary of the Market Committee may execute a contract or an agreement on behalf of the Market

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- Committee where the amount or value of such contract or agreement does not exceed rupees five thousand regarding matters in respect of which he is generally or specifically authorized to do so by a resolution of the Market Committee;
- (ii) the Chairman and the Secretary of the Market Committee, when the amount or value of such a contract or an agreement does not exceed rupees twenty thousand, depending on the class of the Market Committee as may be prescribed;
- (iii) in any case other than those referred to in clause (i) of sub-section (2), a contract or agreement on behalf of the market committee shall be executed by the Chairman, Secretary and one other member of the Market Committee who shall have been generally or specially authorized by a resolution of the market committee to do so.
- (3) Every contract entered into by the Market Committee shall be in writing and shall be signed on behalf of the Market Committee by the person or persons authorized to do so under sub. section(2).
- (4) No contract other than a contract executed as provided in sub-sections (1), (2) or (3) shall be valid and binding on the Market Committee.
- (5) Where a contract or agreement is entered into on behalf of a Market Committee, the Secretary of the Market Committee shall report the fact to the Market Committee at its meeting convened immediately following the date of entering into such a contract or an agreement.

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34. Act of Market Committee etc not to be invalidated

No act of a Market Committee or of any sub-committee thereof or of any person acting as a member, Chairman, presiding Authority or Secretary shall be deemed to be invalid by reason only of some defect in the constitution or appointment of such Market Committee, sub-Committee, members, Chairman, presiding authority or Secretary or on the ground that they or any of them were disqualified for such office, or that formal notice of the intention to hold a meeting of the Committee or of the sub-committee was not given duly or by reason of such act having been done during the period of any vacancy in the office of the Chairman, or Secretary or member of such Committee or sub-committee or for any other infirmity not affecting the merits of the case.

CHAPTER-VI

STAFF OF MARKET COMMITTEE

35. Constitution of Nagaland State Agricultural Marketing Service

- (1) (i) The State Government may, for the purpose of providing officers to the Market Committee, constitute in a prescribed manner, a Service to be called Nagaland State Agriculture Marketing Service.

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- (2) The State Government may make rules in respect of recruitment, qualification, appointment, promotion, scale of pay, leave, allowance, acting allowance, loans, pension gratuity, annuity, compassionate fund, provident fund, dismissal, removal, conduct, departmental punishment, appeals and other service conditions of the members of the State Agricultural Marketing Service:

Provided that a market committee shall have the power of withholding promotion and stoppage of increment of the members of the State Agricultural Marketing service.

- (3) The salary, allowances, gratuity and other payments required to be made to the members of the State Agricultural Marketing Service in accordance with the conditions of their service, shall be charged on the Market Committee.
- (4) The Director/Member Secretary may, transfer any member of the State Agricultural Marketing Service from one Market Committee to another Market Committee.

36. Secretary of the Market committee

- (1) Every Market Committee shall have a Secretary who shall be the Chief Executive Officer of the Market Committee and shall be the custodian of all the records and properties of the Market Committee and shall exercise and perform the following powers and duties in addition to such other duties as may be specified in this Act, the rules or bye-laws, namely:

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- (i) convene the meeting of the Market Committee and of the sub-committee, if any and maintain minutes of the proceedings thereof;
- (ii) attend the meeting of the Market Committee and of every sub-committee and take part in the discussion but shall not move any resolution or vote at any such meeting;
- (iii) take action to give effect to the resolution of the Committee and of the sub-committees, and report about all action taken in pursuance of such resolution to the committee as soon as possible;
- (iv) prepare the budget proposal;
- (v) furnish to the Market Committee such returns, statements, statistics and report as the Market Committee may, from time to time, require including reports:
 - (a) regarding the fines and penalties levied on, and any disciplinary action taken against the members of the staff and the market functionaries and others;
 - (b) regarding over-trading by traders;
 - (c) regarding contravention of the Act, the rules, the bye-laws of the standing orders by any person;
 - (d) regarding the suspension or cancellation of licence by the Chairman or by the person authorized by the Board in this behalf;
 - (e) regarding the administration of the Market Committee and the regulation of the marketing;

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- (vi) produce before the committee such documents, books, registers and the likes as may be necessary for the transaction of the business of the committee or the sub-committee, and also whenever called upon by the Market Committee to do so;
 - (vii) exercise supervision and control over the acts of all officers and servants of the committee;
 - (viii) collect fees and other money leviable by or due to the Market Committee;
 - (ix) be responsible for all money lawfully payable by the Market Committee;
 - (x) make disbursements of all moneys lawfully payable by the Market Committee;
 - (xi) report to the Chairman and Director or Member Secretary as soon as possible in respect of fraud, embezzlement, theft or loss of the Market Committee's fund or property;
 - (xii) prefer complaint in respect of prosecutions to be launched on behalf of the Market Committee and conduct proceedings, civil or criminal, on behalf of the Market Committee.
- (2) The Secretary shall be appointed by the State Government from the services of the State Government and such appointments shall be binding on the Market Committee.

37. Appointment of staff by the Market Committee

- (1) Every Market Committee may appoint such other Officers and servants as may be necessary and proper for efficient discharge of its duties:

Provided that no post shall be created save with the prior sanction of the State Government/Board.

- (2) The Market Committee may make bye-laws for regulating the appointment, pay, leave, allowances, pension, gratuities, contribution to Provident Fund and other conditions of service of such servants appointed under sub-section (1) and for providing for the delegation of powers, duties and functions to them.
- (3) Notwithstanding anything contained in this Act or any rules or bye-laws made there under, the Board may, subject to the conditions specified in sub-section (4), transfer on deputation any servant other than the Secretary, or servant of any Market Committee carrying a maximum scale of pay as prescribed to any other Market Committee of the District and it shall not be necessary to consult either the Market Committee or the servant concerned before passing an order of transfer on deputation under this sub-section.
- (4) The servant concerned transferred under sub section (3) shall:
 - a) have his lien on the post held in the parent Market Committee; and

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- (b) not be put to disadvantageous position in respect of pay and allowance which he would have been entitled to, had he continued in the parent Market Committee.

Chapter - VII

CONTRACT FARMING

38. Procedure and Form of contract farming agreement

Contract Farming agreement shall be in the manner laid down hereinafter: .

- (1) the Contract Farming Sponsor shall register himself with the market committee or with a prescribed officer in such a manner as may be prescribed.
- (2) The Contract Farming Sponsor shall get the contract farming agreement recorded with the officer prescribed in this behalf. The contract farming agreement shall be in such form containing such particulars and terms and conditions as may be prescribed. Notwithstanding anything contained in the contract farming agreement, no title, rights, ownership or possession shall be transferred or alienated or vested in the contract farming sponsor or his agent as a consequence arising out of the contract farming agreement.
- (3) Disputes arising out of contract farming agreement may be referred to an Authority prescribed in this behalf for settlement. The prescribed Authority shall resolve the dispute in a summary manner within thirty days after giving

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the parties a reasonable opportunity of being heard, in the manner prescribed.

- (4) The party aggrieved by the decision of the prescribed authority under sub-section (3) may prefer an appeal to an Appellant Authority within thirty days from date of decision. The Appellant Authority shall dispose off of the appeal within thirty days after giving the parties a reasonable opportunity of being heard and the decision of the Appellant Authority shall be final.
- (5) The decision by the Authority under sub section (3) and decision in an appeal under sub section (4) shall have the force of the decree of a civil court and shall be enforceable as such and the decreed amount shall be recovered as arrears of land revenue.
- (6) Dispute relating to and arising out of contract farming agreement shall not be called in question in any court of law other than provided herein above.
- (7) The agricultural produce covered under the Contract Farming Agreement may be sold to the Contract Farming Sponsor outside the market yard and in such a case, no market fees will be leviable.

Chapter-VIII

REGULATION OF TRADE

39. Regulation of Marketing of notified Agricultural Produce

(1) No person shall, except in accordance with the provision of this Act and the rules and bye-laws made there under:

(i) use any place in the market area for the marketing of notified agricultural produce, or

(ii) operate in the market area as a market functionary. Nothing in sub-section (1) shall apply to the following sale or purchase of such agricultural produce:

(i) whereof, the sale is made by the producer himself to any person for his domestic consumption in quantity upto four quintals;

(ii) which is brought for sale by head load:

Provided that the State Government by notification may withdraw this exemption specifying the reason therein in respect of such market area as is specified in the notification;

(iii) purchase or sale of which is made by a petty trader;

(iv) purchase of which is made by an authorized fair price shop dealer from the Food Corporation of India or any other agency or institution authorized by the State Government for distribution of essential commodities through the public distribution system;

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- (v) transfer of such agricultural produce to a cooperative society for the purpose of securing advance therefrom.

40. Sale of notified Agricultural Produce in the Markets

- (1) All notified agriculture produce shall ordinarily be sold in the market yards/sub market yards or in the private yards of the licence holder, subject to the provision of sub-section (2):
Provided that the notified agricultural produce may be sold at other places also to a licence holder especially permitted in this behalf under section 45 of this Act:

Provided further that it will not be necessary to bring agricultural produce covered under contract farming to the market yard/sub-market yard/private yard and if may be directly sold to the Contract Farming Sponsor from the farmers' fields.

- (2) Such notified agricultural produce as may be brought by the licensed/registered traders from outside the market area or in the market area in the course of a commercial transaction may be bought or sold anywhere in the market area.
- (3) The price of the notified agricultural produce brought for sale into the market yard, shall be settled by tender bid or auction or any other transparent system and no deduction shall be made from the agreed price on any account whatsoever from the seller:

Provided that the price of notified agricultural produce in the private yards shall be settled in the manner prescribed.

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- (4) Weighmen or measurement or counting of all the notified agricultural produce so purchased shall be done by such a person and such system as is provided in the bye-laws or at any other place specified for the purpose by the Market Committee.

41. Terms and procedures of buying and selling

- (1) Except in the commercial transaction between two traders, any other person who buys notified agricultural produce in the market area, shall execute an agreement in triplicate in such form, as may be prescribed in favour of the seller. One copy of the agreement shall be kept by the buyer, one copy shall be supplied to the seller and the remaining copy shall be kept in the record of the Market Committee.
- (2) (i) The price of the notified agricultural produce bought in the market yard/sub market yard/private yard shall be paid on the same day to the seller in the market yard/sub market yard/private yard. Payment of notified agricultural produce purchased, out of such yard/yards, shall also be made to the seller, if he is not a trader, on the same day there itself.
(ii) In case the purchaser does not make payment under clause (i), he shall be liable to make additional payment at the rate of one percent per day of the total price of the agricultural produce, payable to the seller within five days.
(iii) In case the purchaser does not make payment with additional payment to the seller under clause (i) and (ii) above, within five days from the day of such purchase, his

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licence/ registration shall be deemed to have been cancelled on the sixth day and he shall not be registered or granted any licence or permitted to operate under this Act for a period of one year from the date of such cancellation.

- (3) No wholesale transaction of notified agricultural produce shall be entered directly by licensed/registered traders with producers of such produce except in the market yard/sub-market yard/private yard or in such place in accordance with the provisions in the bye-laws:

Provided that agricultural produce covered under contract farming agreement may be bought directly by contract farming buyer anywhere.

- (4) The commission agent shall recover his commission only from his principal trader at such rates as may be specified in the bye-laws including all expenses as may be incurred by him in storage of the produce and other services rendered by him.
- (5) Every commission agent shall be liable:(a) to keep the goods of his principal in safe custody without any charge other than the commission payable to him and (b) to pay the principal, as soon as goods are sold, the price thereof irrespective of whether he has or has not received the price from the buyer of such goods.

42. Power to levy market fees (single point levy)

- (1) Every market committee shall levy market fee,-

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- (i) on the sale or purchase of notified agricultural produce, whether brought from within the State or from outside the State, into the market area; and
 - (ii) on the notified agricultural produce whether brought from within the State or from outside the State, into the market area for processing at such rates as may be fixed by the State Government from time to time subject to a minimum rate of fifty paise and a maximum of rupees two for every rupees one hundred of the price in the manner prescribed.
- (2) (i) Market fee specified in sub-section (1) shall not be levied for the second time in any market area of the State, provided that market fee has already been paid on that agricultural produce in any market of the State and the information in this context has been furnished, as prescribed, by the concerned person that the payment of market fee has already been made in other market.
- (ii) Market fee shall not be levied more than once in any market area in case the agricultural produce is being resold in the process of commercial transaction between traders or to consumers, provided that the information, as prescribed has been furnished by the concerned person that the payment of due market fee has already been made on it.
- (3) On the agricultural produce brought in the market area for commercial transaction or for processing, if the permit issued under section 44 has not been submitted, the market fee shall be deposited by the buyer or processor, as the case may be, in the office of the market committee, within

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fourteen days, but before sale or resale or processing or export outside the market area.

Provided that in case any notified agricultural produce is found to have been processed, sold or resold or dispatched outside the market area without payment of market fee payable on such produce, the market fees shall be levied and recovered at five times the market value of the processed produce or value of the agricultural produce, as the case may be.

- (4) The market fee shall be payable by the buyer of the notified agricultural produce and shall not be deducted from the price payable to the seller:

Provided that where the buyer of a notified agricultural produce cannot be identified, all the fees shall be payable by the person who may have sold or brought the produce for sale in the market area:

Provided further that in case of commercial transaction between traders in the market area, the market fees shall be collected and paid by the seller.

- (5) The market functionaries, as the Market Committee may, by bye-laws specify, shall maintain account relating to sale and purchase or processing or value addition in required forms and submit to the Market Committee, periodical returns as may be prescribed.

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- (6) The Market Committee may levy and collect entrance fee on vehicles, which may enter into market yard/sub-market yard at such rate as may be specified in the bye-laws.

43. Permission for transportation of notified agricultural produce

- (1) Any agricultural produce, shall be transported into the market area under commercial transaction as may be prescribed by the Board.
- (2) Any notified agricultural produce shall be removed out of the market area only in the manner and in accordance with the permit issued in such form, as is prescribed by the Member Secretary or Director and not otherwise:

Provided that the bill issued by the seller will have to be kept with the buyer at the time of transportation of processed products of agricultural produces.

44. Registration of Functionaries

- (1) Every person who, in respect of notified agricultural produce, desires to operate in the market area as trader, commission agent, weighmen, surveyor, warehouseman, contract farming buyer, owner or occupier of processing factory or such other market functionary, shall apply to the Market Committee for registration in such manner, within such period as may be prescribed.

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Provided that any person who desires to trade or transact in any notified agricultural produce in more than one market area, shall have to get his registration, for respective function, with the authority prescribed by the State Government/Director.

- (2) Every such application shall be accompanied with such fee as the State Government/ Director may prescribe.
- (3) The Market Committee may register or renew the registration or refuse to register or renew the registration on the basis of one or more of the following reasons:-
 - (i) the applicant is a minor or not bonafide;
 - (ii) the applicant has been declared defaulter under the Act or rules made thereunder and bye-laws;
 - (iii) the applicant has been found guilty under this Act.
- (4) The applications received under sub-section (1) shall be disposed off by the Market Committee as required in sub section (3) in four weeks, but if the Market Committee fails to dispose off application in four weeks time, then
 - (i) the applicant shall remind in writing to the Market Committee, in respect of his application;
 - (ii) moreover the applicant shall also inform in writing to the authority prescribed by the Director in this regard;
 - (iii) on the expiry of period of two weeks after submitting the reminder, if the application is not disposed off, it shall be

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deemed that the registration or its renewal, as the case may be, has been granted;

- (iv) the prescribed Authority on the basis of information received by him and after expiry of time of two weeks, shall only confirm that application for registration/renewal was submitted to the Market Committee and due action has not been taken by the Market Committee for disposal of the same, then he shall issue a certificate under clause (iii) of sub section (4) regarding grant of deemed registration or its deemed renewal within two weeks time.
- (5) All the registrations granted and renewed under this section shall be subject to the provisions of this Act, rules and by-laws made thereunder.
- (6) No commission agent shall act in any transaction between the agriculturist-seller, or traders-purchaser, on behalf of an agriculturist-seller, nor shall he deduct any amount towards commission from the sale proceeds payable to the agriculturist-seller.

45. Establishment of private market yards and direct purchase of agricultural produce from agriculturists (direct purchase from producers)

The Director/Member Secretary/prescribed Authority may grant licence to purchase agricultural produce by establishing private market yards or direct purchase from agriculturist in one or more market area for:

- (a) process of the notified agricultural produce;

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- (b) trade of notified agricultural produce of particular specifications;
- (c) export of notified agricultural produce;
- (d) grading, packing and transaction in other way by value addition of notified agricultural produce.

46. Establishment of consumer/farmer market (direct sale by the producers)

- (1) Consumer/Farmer market may be established by developing infrastructures as prescribed by any person in any market area.
- (2) Market service charge shall be collected on sale of agricultural produce by the seller and will be remitted to the proprietor of the consumer market.
- (3) Save as otherwise provided in this Act, no market fees shall be leviable on the transactions undertaken in the consumer/farmers market.

47. Grant/Renewal of private yard, consumer/farmer market and weighman

- (1) Any person who, under section 45, desires to purchase notified agricultural produce direct from the agriculturist or wishes to establish consumer/farmer market in one or more than one yard, market area, shall apply to the Director or Member Secretary for grant or renewal of licence, as the case may be, prescribed by the State Government.

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- (2) Along with every such application for licence, fee prescribed by the Board shall be deposited.
- (3) Application received under sub-section (1) for grant of or renewal of licence may be accepted or rejected for reasons recorded in writing by the Authority prescribed by the State Government, as the case may be;

Provided that

- (i) if the market committee dues are outstanding against the applicant the licence shall not be granted/renewed;
 - (ii) the applicant is a minor or not bonafide;
 - (iii) the applicant having been declared guilty in any criminal case and convicted by imprisonment;
 - (iv) any other reason.
- (4) All the licences granted/renewed under this section shall be subject to provision of this Act, rules or bye-laws made thereunder.

48. Power to cancel or suspend licence/registration

- (1) Subject to the provisions of sub-section (4) of this section, the Director or Member Secretary or prescribed officer or Market Committee who has issued licence or registration, as the case may be, for reasons to be communicated to the licence holder/ registration holder in writing, may suspend or cancel the licence or registration as the case may be:

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- (i) if the licence or registration has been obtained through willful misrepresentation or fraud; or
 - (ii) if the holder of the licence or registration or any servant or anyone acting on his behalf with his (license/registration holder) expressed or implied permission, commits a breach of any of the terms or conditions of licence/registration;
 - (iii) if the holder of the licence/registration in combination with other licence/registration holder commits any act or abstains from carrying on his normal business in the market area with the intention of willfully obstructing, suspending or stopping the marketing of notified agricultural produce in the market yard/sub-market yard and in consequence whereof the marketing of any notified agricultural produce has been obstructed, suspended or stopped;
 - (iv) if the holder of the licence/registration has become an insolvent;
 - (v) if the holder of the licence/registration incurs any disqualification, as may be prescribed; or
 - (vi) if the holder of the licence/registration is convicted of any offence under this Act then within one year of the conviction if the conviction is for the first time and within three years for subsequent conviction.
- (2) Subject to the provisions of sub-section (4) of this section, the Chairman or Secretary may, after communicating the reasons in writing to the licence/registration holder, suspend a licence/registration for the period not exceeding one

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month on any reason for which the Market Committee may suspend a licence/registration under sub-section (1):

Provided that such order shall cease to have effect on expiry of a period of ten days from the date on which it is made, unless confirmed by the Market Committee before such expiration.

- (3) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sub-section (4) the Director or Member Secretary may, for the reasons to be communicated in writing to the licence/registration holder, by order, suspend or cancel his licence/registration granted or renewed by the Market Committee.
- (4) No licence/registration shall be suspended or cancelled under this section without giving a reasonable opportunity to its holder to show cause against such suspension or cancellation:

Provided that the power to suspend or cancel a licence granted by the authority prescribed by the State Government shall vest with the Authority himself so prescribed subject to provisions of this Section.

49. Appeal

- (1) Any person aggrieved by an order of the Secretary or the Chairman of Market Committee or the Director/Member Secretary, passed under Sections 44 or 47 or 48, as the case may be, prefer an appeal:

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- (i) to the Market Committee, where such order is passed by the Chairman/Secretary, within seven days of receipt of the order, and
 - (ii) to the Director or Member Secretary, where such order is passed by the Market Committee, within thirty days of receipt of the order, and
 - (iii) to the State Government, where such order is passed by the Director or Member Secretary, within thirty days of receipt of the order, in such manner, as may be prescribed.
- (2) The Appellate Authority shall, if it considers necessary to do so, grant a stay of the order appealed against for such period as it may deem fit.
- (3) The order passed by the Chairman, Market Committee and the Director or Member Secretary shall, subject to the order in the appeal under this section, be final and shall not be called in question in any Court of law.

50. Redressal of dispute between Private Market/Consumer Market and Market Committee

- (1) Dispute between the Private Market or Consumer Market and Market Committee, shall be referred to the Director or Member Secretary or any Officer authorized by the State Government in this regard. The dispute shall be resolved after giving both parties a reasonable opportunity of being heard, in the manner prescribed.

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- (2) The decision given by the Authority under sub-section (1) above shall be final and shall not be called in question in any Court of law.

51. Prohibition of allowance other than those prescribed under this Act

No trade allowance or deduction, other than prescribed by trade or under this Act, shall be made or received by any person in any market area in any transaction in respect of notified agricultural produce and no Civil Court, shall, in any suit or proceedings arising out of any such transaction, have jurisdiction in regard to any trade allowance not so prescribed.

52. Power to order production of accounts and entry, inspection and seizure

- (1) The Secretary of the Market Committee or any officer or servant of the State Government, empowered by the State Government in this behalf may, for the purpose of this Act, require any person carrying on business in any kind of notified agricultural produce to produce before him the accounts and other documents and to furnish any information relating to the stocks of such agricultural produce or purchase, sale, processing, value addition and delivery of such agricultural produce by such person and also to furnish any other information relating to payment of market fees by such person.

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- (2) All accounts and registers maintained by any person in the ordinary course of business of any notified agricultural produce and documents relating to stocks of such agricultural produce or purchase, sale, processing, value addition and offices, establishment, godowns, vessels or vehicles of such persons shall be kept open for inspection at all reasonable time by such officers and servants of the State Government, Board or Market Committee as may be authorized by the State Government in this behalf.
- (3) If any such Officer or servant has reasons to suspect that any person is attempting to evade the payment of any market fee due from him under section 42 or that any person has purchased, sold, processed or value added any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws in force in the market areas, he may, by communicating in writing to such person, seize such accounts, registers or documents of such a person as may be necessary, and shall grant a receipt for the same and shall retain the same only so long as may be necessary for examination thereof or for prosecution.
- (4) For the purposes of sub-section (2) or sub-section (3), such officer or servant may enter or search any place of business, warehouse, office, establishment, godown, vessel or vehicle where such officer or servant has reason to believe that such person keeps or for the time being has kept accounts, registers or documents of his business, or stocks of notified agricultural produce relating to this business.

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- (5) The provisions of section 100 (4) to (8) of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to a search under sub-section (4).
- (6) Where any books of accounts or other documents are seized from any place and there are such entries therein making reference to quantity, quotations, rates, receipts or payment of money or sale or purchase of goods, such books of accounts or other documents shall be admitted in evidence without witness having to appear to prove the same, and such entries shall be prima facie evidence of matters, transactions and accounts purported to have been recorded therein.

53. Submission of annual account by licensed/ registered functionaries and assessment of market fees

- (1) Every trader; processor, proprietor of a private yard, proprietor of consumer/farmer markets or commission agent, carrying on business of notified agricultural produce shall, before the 30th June every year submit to the Secretary a statement of transaction undertaken by or through him during the previous financial year ending on the 31st March, in the prescribed manner.
- (2) The Secretary shall accept or reject the statement submitted to him under sub-section (1) after necessary examination and verification on the basis of information duly available in the Market Committee and shall assess the balance amount payable by the functionary and levy the assessed amount.

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- (3) Any person aggrieved by the proceedings of the Secretary, may within thirty days from the date of communication of the notice to him, appeal to the Market Committee.
- (4) Any officer authorized by the State Government or the Board may, on his own motion or on application made to the State Government start process of re-verification of the statement, verified by the Secretary, within two years of the date of verification and for this purpose such officer shall exercise the powers under section 52.
- (5) The re-verification made by the officer authorized by the State Government or the Board, shall be final.

54. Assessment of Market fees, on his own motion by the Secretary, payable to Market Committee by licensed/ registered functionaries

If any person who is required to produce accounts or furnish information under sub-section (1) of section 53 fails to produce such accounts or to furnish information or knowingly furnishes incomplete or incorrect account or information or has not maintained proper accounts of the business of the notified agricultural produce, the Secretary on his own motion, shall assess such person for fees levied under section 42 on the basis of information available with the Market Committee.

55. Power to stop vehicle and inspect stores

- (1) At any time when so required:

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- (i) by any officer or servant of the Board or any officer or servant of the Government empowered by the Board or the Deputy Commissioner of the District in any market area, or
 - (ii) by any officer or servant of the Market Committee in this behalf in the market area concerned, the driver or any other person in charge of a vehicle, vessel or other conveyance shall stop the vehicle, as the case may be, and keep it stationary, as long as may reasonably be necessary, and allow such person to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to notified agricultural produce carried, and give his name, address and name and address of the owner of the vehicle, vessel or other conveyance and name and address of the owner of the notified agricultural produce carried in such vehicle, vessel or other conveyance.
- (2) Persons empowered under sub-section (1) shall have power to seize any notified agricultural produce brought into or taken out or proposed to be taken out of the market area in any vehicle, vessel or other conveyance, if such person has reason to believe that any fee or other amount due under this Act or the value payable to the seller in respect of such produce has not been paid.
 - (3) If any person empowered under sub section (1) has reason to suspect that any person is attempting to evade the payment of any market due from him under section 41 or that any person has purchased or stored any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws in force in the market area, he may enter or search any place of

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business, warehouse, office, establishment or godown where the person empowered under sub-section (1) has reason to believe that such person keeps or has for the time being kept stock of notified agricultural produce and may seize the stored agricultural produce and such seized notified agricultural produce may be confiscated in favour of the market committee as prescribed for this purpose:

Provided that reasonable opportunity of hearing shall be given to the person concerned before confiscation of the agricultural produce.

- (4) The provisions of sections 100, 457, 458 and 459 of the Code of Criminal Procedure, 1973 (No.2 of 1974) shall apply to entry, search and seizure under sub-section (1), (2) and (3) as they apply in relation to the entry, search and seizure of property by a Police officer. Such seizure shall forthwith be reported by the person aforesaid to a Magistrate having jurisdiction to try the offence under this Act.

56. Power to exemption from market fee

- (1) The State Government may, by notification and subject to such conditions and restrictions, if any, as may be specified therein exempt in whole or in part any agricultural produce brought for sale or bought or sold in the market area specified in such notification, from the payment of market fee for such period as may be specified therein.
- (2) Any notification issued under this section may be rescinded before the expiry of the period for which it was to have shall cease to be in force.

CHAPTER-IX

Budget and Market Committee. Fund

57. Preparation and sanction of budget

- (1) Every Market Committee shall prepare and pass the budget of its income and expenditure for the ensuing year in prescribed form and shall submit it to the Director/Member Secretary for sanction before the prescribed date every year. The Director or Member Secretary shall sanction the budget with or without modification within two months from the date of receipt thereof. If the budget is not returned by the Director Member Secretary within two months, it shall be presumed to have been sanctioned.
- (2) The Market Committee may sanction and cause to undertake execution of construction works out of its fund other than the permanent fund referred to in sub-section (6) of this section on the basis of the plans and designs approved by the Market Committee, in such manner as may be prescribed by the Board.
- (3) No expenditure shall be incurred by a Market Committee on any item if there is no provision in the sanctioned budget thereof unless it can be met by re-appropriation from saving under any other head. The sanction for re-appropriation may be obtained from the Director or Member Secretary; however, in case of re-appropriation from minor heads

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under one major head, sanction for re-appropriation will not be required.

- (4) A Market Committee may, at any time during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and sanction in the same manner as if it were an original budget.
- (5) The Market Committee shall make provision in its budget for crediting the amount into the permanent fund at the rate of twenty percent of its gross receipt comprising of license fee and market fee and to the pension fund as prescribed from time to time by the Director/Member Secretary. No expenditure from the permanent fund shall be incurred except with the prior approval or as per direction given by the Director or Member Secretary. No expenditure from this fund or from the amount as provided under sub-section (2) of section 58 shall be proposed in the budget referred to in sub-section (1).
- (6) The Director /Member Secretary of the Board while according sanction for construction work may at his discretion, direct that the execution of the works shall be entrusted to the Public Works Department of the State Government or Marketing Board or any other agency authorized by the Board for this purpose.

58. Market committee Fund

- (1) Save as provided in sub-section (2) all moneys received by a Market Committee shall be paid into a fund to be

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called the "Market Committee Fund" and all expenditure incurred by the Market Committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the Market Committee after such expenditure has been met, shall be invested in such manner as may be prescribed.

- (2) Any money received by the Market Committee by way of arbitration fee or as security for costs in arbitration proceedings relating to disputes or any money received by the committee by way of security deposit, contribution to provident fund or for payment in respect of any notified agricultural produce, or charges payable to weighmen and other functionaries and such other money received by the Market Committee may be provided in the rules or bye-laws shall not form part of Market Committee Fund and shall be kept in such manner as may be prescribed.
- (3) Save as otherwise provided in this Act, the amount to the credit of the Market Committee Fund and also other money received by the Market Committee shall be kept in a scheduled co-operative bank or in a nationalized bank or in a post office saving bank or in any other mode with the approval of the Director or Member Secretary.

59. Application of Market Committee Fund

Subject to the provisions of section 58 the Market Committee Fund may be expended for the following purposes only, namely:

- (i) the acquisition of a site or sites for the market;

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- (ii) establishment, maintenance and improvement of market yard;
- (iii) the construction and repairs of building necessary for the purpose of the market yard and for convenience or safety of the persons using the market yard; .
- (iv) the maintenance of standard weights and measures;
- (v) the maintenance of establishment charges including payment and contribution towards provident fund, pension and gratuity of the officers and servants employed by a market committee;
- (vi) loans and advance to the employment of the market committee;
- (vii) the payment of interest on the loans that may be raised for the purpose of the market and provisions of sinking fund in respect of such loans;
- (viii) the collection and dissemination of information relating to crop statistics and marketing of agricultural produce;
- (ix) expenses incurred in auditing the account of the Market Committee;
- (x) payment of honorarium and traveling allowance of Chairman, and other members of the market committee and sitting fees payable to members for attending meetings;
- (xi) contributions to State Agricultural Marketing Board as prescribed;

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- (xii) contributions to any scheme for development of agricultural marketing including transport;
- (xiii) to provide facilities like grading, standardization and quality certification services and communication to agriculturist in the market area;
- (xiv) to provide for development of agricultural produce in the market area;
- (xv) incurring of all expense on research, extension and training in marketing of agricultural produce;
- (xvi) prevention, in conjunction with other agencies, State, Central and others of distress sale of agricultural produce;
- (xvii) fostering co-operative marketing and assisting co-operative marketing societies in the procurement and organization of profitable disposal of produce particularly the produce belonging to small and marginal farmers;
- (xviii) to create and promote on its own or through public-private partnership infrastructure of post harvest handling of agricultural produce, cold storages, pre-cooling facilities pack houses and all such infrastructure to develop modern market systems; and
- (xix) any other purpose connected with the marketing of agricultural produce under this Act whereon the expenditure of the Market Committee Fund is in the public interest subject to the prior sanction of the Director/Member Secretary.

Chapter-X

**STATE AGRICULTURAL MARKETING BOARD:
CONSTITUTION, FUNCTIONS AND POWERS.**

60. Establishment of the State Agriculture Marketing Board

The State Government may, for coordinating the activities of markets and for development, promotion and regulation of agricultural marketing and for exercising such other powers amid performing such functions as are conferred or entrusted by or under this Act, establish and constitute a State Agricultural Marketing Board.

61. Incorporation of Board

The Board shall be a body corporate having perpetual succession and common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to lease, sell or otherwise transfer any such property and to contract and to do all other things necessary for the purpose for which it is established.

62. Composition State Agricultural Marketing Board

The Board shall consist of a Chairman and such other members as may be appointed by the State Government.

63. Members of the Board

The members of the Board shall be appointed by the State Government from amongst the following categories of persons, namely:

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- (1) **Chairman:** There shall be a Chairman of the State Agricultural Marketing Board who will be appointed by the State Government.
- (2) Three to Five members to be nominated by the State Government from amongst the Chairmen of market committees (APMC)
- (3) Other ex officio members will be as follows:
 - (i) Agriculture Production Commissioner (APC)
 - (ii) Secretary, Agriculture/ Secretary, Horticulture/ Secretary, Veterinary and Animal Husbandry.
 - (iii) Agricultural Marketing Advisor to the Government of India or his nominee.
 - (iv) Representative of the National Bank for Agriculture and Rural Development, not below the rank of Deputy General Manager.
 - (v) Director Agriculture/Agricultural marketing, Director Horticulture, Director Veterinary and Animal Husbandry, Director Fishery, Registrar Co-operative Societies.
 - (vi) Member Secretary who will be appointed by the State Government.

64. Appointment of Member Secretary and employees of the Board

- (1) The Board shall have a Member Secretary who shall be appointed by the State Government who shall be the Chief Executive Officer of the Board.
- (2) The Board may appoint other officers and employees as may be necessary for the efficient discharge of its duties and functions under the Act.
- (3) The superintendence and control over all the officers and employees of the Board shall vest in the Member Secretary.

65. Term of office for the non-official Members of the Board

The term of office of the non-official members of the Board shall be for five years, however the members may hold office at the pleasure of the State Government. The Government may if it thinks fit remove any of the Board members before the expiry of the term of office.

66. Term of office for the official members of the Board

The tenure of official members of the Board shall come to an end as soon he ceases to hold the office by virtue of which he was nominated. In the event of super-session of the Market Committee from where the member/members have been nominated to the Board, the concerned member shall cease to be a member of the Board.

67. Allowance to members of the Board

The members of the Board other than the ex officio members shall be paid from the State Marketing Development Fund for such sitting fees and allowances for attending its meetings and attending to any other work as may be fixed by the State Government from time to time.

68. Filling of casual Vacancy

In the event of death, resignation, disqualification, or removal of any member of the Board or any vacancy occurs otherwise before the expiry of the term of office, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled, as soon as may be, by nomination by the State Government. The person so nominated shall hold such office for the un-expired term of his predecessor.

69. Resignation of Members

A member of the Board may resign his membership by tendering his resignation to the State Government under intimation to the Chairman of the Board and the seat of such member shall become vacant on the date of acceptance of his resignation.

70. Disqualification of the members of Board

No person shall be a member of the Board who:

- (a) is, or at any time has been, adjudged insolvent; or

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- (b) is, or has been convicted of an offence which, in the opinion of the State Government involves moral turpitude;
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is a Director or a Secretary, Manager or other salaried officer or employee of any company or firm having any contract with the Board or a Market Committee; or
- (e) is, or at any time been found guilty under section 87 or 99 of this Act;
- (f) has so abused, in the opinion of the State Government, his position as a member, as to render his continuance on the Board detrimental to the interest of the general public.

71. Application of sub-committee

The Board may appoint sub-committees consisting of three or more of its members which shall include Chairman and the Member Secretary, for the performance of any of its duties or functions or for giving advice on any matter incidental thereto and may delegate to such sub-committee any of its duties or functions as may be deemed necessary.

72. Superintendence of the Board

The State Government shall exercise superintendence and control over the Board and its officers and may call for information as it may deem necessary and, in the event of its being satisfied that the Board is not functioning properly, the Government may suspend the Board and, till such time

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as a new Board is constituted, make such arrangements for the exercise of the functions of the Board as it may think fit, provided that, the Board shall be constituted within six months from the date of its suspension.

73. Functions and Powers of the Board

- (1) The Board shall, subject to the provisions of the Act, perform the following functions and shall have power to do such thing as may be necessary or expedient for carrying out these functions:
- (i) coordination of the working of the Market Committees and other affairs thereof including programmes undertaken by such Market Committees for development of markets and market areas; .
 - (ii) undertake the State level planning of the development of agricultural produce markets;
 - (iii) administer the State Market Development Fund;
 - (iv) give direction to Market Committees in general or any Market Committee in particular with a view to ensure improvement thereof;
 - (v) any other functions specifically entrusted to it by this Act;
 - (vi) such other functions of like nature as may be entrusted to the Board by the State Government.

Without prejudice to the generality of the foregoing provision, such functions of the Board shall include:

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- 2.(i) to approve proposals for selection of new sites by the Market Committee for establishment of principal or sub-market yard;
- (ii) to approve proposals for constructing infrastructure facilities in the market area;
- (iii) to supervise and guide the Market Committees in preparation of plans and estimates of construction programme undertaken by the Market Committees;
- (iv) to execute all works chargeable to the Board's Fund;
- (v) to maintain accounts in such form as may be prescribed and get the same audited in such manner as may be laid down in the regulations of the Board;
- (vi) to publish annually at the close of the year its progress report, balance sheet, and statement of assets and liabilities and send copies thereof to each member of the Board and the State Government;
- (vii) to set up a separate Marketing Extension Cell in the Marketing Board for transfer of marketing technology and extension services; the Board may also make necessary arrangements for propaganda and publicity on matters related to the regulated marketing of an agricultural produce and development of marketing;
- (viii) to provide facilities for the training of officers and staff of the market committees after assessing the demand or trained personnel in agricultural marketing at all levels; a Training Institute with centers for training in agricultural

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- marketing for various market functionaries, APMC members and farmers etc. be set up in the State Marketing Board, with necessary financial and academic support by the Directorate of Marketing and Inspection (Government of India) being the National level Nodal Agency;
- (ix) to prepare and adopt budget for the ensuing year;
 - (x) to grant subventions on loans to market committees for the purpose of this Act on such terms and conditions as the Board may determine;
 - (xi) arrange or organize seminars/workshops/exhibitions etc., on subjects related to agricultural marketing;
 - (xii) to do such other things as may be of general interest to Market Committee or considered necessary for efficient functioning of the Board;
 - (xiii) organize and promote grading and standardization of notified agricultural produce;
 - (xiv) arrange for collection of such agricultural produce in the market area in which all trade therein is to be carried out exclusively by the State Government or under any law in force for that purpose or of such agricultural produce in the market area as the State Government may from time to time notify.
- (3) The Board for the purpose of promotion of grading, standardization and quality certification of agricultural produce in the State shall set up a Agricultural Produce

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Marketing Standards Bureau to perform such functions and duties as prescribed.

74. Regulation

- (1) The Board may with the previous approval of the State Government make regulations, not inconsistent with this Act and rules made thereunder for the administration of the affairs of the Board.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:
 - (a) summoning and holding of meetings of the Board, the time and date when such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereof;
 - (b) powers and duties of the officers and other employees of the Board;
 - (c) salaries and allowances and other conditions of service of officers and other employees of the Board and of Officers of the Market Committees;
 - (d) management of the property of the Board;
 - (e) execution of contracts and assurances of property on behalf of the Board;
 - (f) maintenance of accounts and the preparation of balance sheet by the Board;

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- (g) procedure for carrying out the functions of the Board under this Act;
- (h) other matters for which provision is to be or may be made in regulation.

75. Marketing Development Fund

All money received by or on behalf of the Board shall be credited to a fund called Marketing Development Fund.

76. Payment incurred by the Board

All payments incurred by the Board shall be defrayed out of the said Fund.

77. Contribution towards the Board

Every Market Committee shall, out of its funds, pay to the Board as contribution such percentage of its income derived from licence fees and market fees as may be prescribed by the State Government by notification in the official Gazette, to meet the expenses of establishment of the Board and expenses incurred in execution of the functions assigned to the Board under this Act.

78. Borrowing by issue of bonds or stocks

The Board may, for carrying out the provisions of this Act, borrow money from the State Government or may with the previous approval of the State Government:

- (i) from any agency; or

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- (ii) issue debentures on the authority of any property vested in it or on the security of a part of its future income accruing to it under this Act, or the rules made thereunder.

79. Utilization of Marketing Development Fund

The Marketing Development Fund shall be utilized by the Board either on its own or through public-private partnership for discharge of functions entrusted to the Board under this Act. Without prejudice to generality of this provision, the Market Development Fund may be utilized for the following purposes, namely:

- (i) payment of administrative expenditure of the Board;
- (ii) payment of traveling and other allowance to the Chairman and Members of the Board;
- (iii) payment of legal expenses incurred by the Board;
- (iv) granting aid to financially weak Market Committees in the form of loan or grant for development purposes;
- (v) propaganda and publicity on matters relating to marketing of agricultural produce;
- (vi) training of the Officers and staff of the Market Committees and Board and also agriculturist;
- (vii) imparting education in marketing of agricultural produce;
- (viii) organizing and arranging workshops, seminars, exhibitions etc. on development of marketing;
- (ix) promotion and construction of infrastructural facilities in

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- the market area;
- (x) general improvement of the regulation of marketing in the State;
 - (xi) providing technical assistance to the Market Committees.
 - (xii) for any other purposes, deemed necessary for execution of the functions assigned to the Board under this Act or as directed by the State Government;
 - (xiii) market survey and research, grading and standardization, quality certification of agricultural produce and other allied subjects;
 - (xiv) acquisition or construction or hiring by lease or otherwise of buildings or land for performing the duties of the Board;
 - (xv) internal audit of the Board and the Market Committees;
 - (xvi) development of Daily/Weekly Bazars for marketing of agricultural production in the market areas;
 - (xvii) development of quality testing and communication infrastructure relevant to agriculture and allied sectors;
 - (xviii) development of media, cyber and long distance infrastructure relevant to marketing of agricultural and allied commodities.

80. Audit of accounts of the Board

- (1) The accounts of the Board shall be subject to audit under the provisions of the State Local Fund Audit Act or by a certified Chartered Accountant.

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- (2) The Board may make arrangement for internal audit of accounts, as it may deem fit.
- (3) The annual accounts and balance sheet of the Board shall be prepared by the Member Secretary and all moneys accruing to or received by the Board from whatever source and all amounts disbursed or paid shall be entered in the accounts.
- (4) At the time of audit, the Member Secretary shall cause to be produced all accounts, registers, documents and other relevant papers which may be called for by the Audit Officer for the purposes of the audit. Any explanation called for by such officer for the removal of any discrepancy shall be immediately furnished to him.
- (5) The accounts when audited shall be printed. The copies of accounts and audit report with comments thereon shall be placed before the Board.
- (6) All moneys received into the State Marketing Development Fund shall be deposited in a Co-operative Bank.

81. Delegation of Powers

- (1) Subject to the provisions of this Act, the Board may by general or special order, delegate to the Member Secretary or sub-committee appointed by it or to any officer of the Board, such of the powers and duties under the Act, as it may deem fit.

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- (2) The Chairman or Member Secretary of the Board may delegate his power under this Act to any officer of the Board.

82. Supervision and Control of the Chairman and the Member Secretary

- (1) The chairman of the Board shall preside over the meetings of the Board.
- (2) Subject to the superintendence of the Board, the general control and direction over all the officers and staff of the Board shall be vested in the Member Secretary.

83. Functions and powers of the Members Secretary

- (1) The Member Secretary shall exercise supervision and control over the officers and staff of the Board in matters of executive administration, accounts and records and disposal of all question relating to service of the employees as per procedure prescribed;
- (2) appoint officers and staff of the Marketing Board as per direction and procedure prescribed by the Board;
- (3) incur expenditure from the Marketing Development Fund on the sanctioned items of work;
- (4) in case of emergency, direct the executions or stoppage of any work and doing of any act which requires the sanction of the Board;
- (5) prepare annual budget of the Board;
- (6) arrange for internal audit of the Board;

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- (7) arrange for the meetings of the Board and maintain records of the proceedings of the meeting of the Board as per procedure prescribed;
- (8) take such steps as deemed necessary for execution of the decision of the Board;
- (9) inspect the construction work undertaken by the Market Committees either from their own funds or loans and or grants provided by the Board or any other agencies and take corrective measures,
- (10) report such acts either of the Market Committee or of the Board which are contrary to the provisions laid down under this Act or rules and bye-laws made thereunder to the State Government.
- (11) take such steps as deemed necessary for effective discharge of the functions of the Board.

84. Control of Business of the Board

- (1) The Board shall meet for the transaction of its business at least once in every three months at such place and at such time as the Chairman may determine.
- (2) Save as otherwise provided in sub-section (1) of this section, the provisions of section 20 shall mutatis mutandis apply for the conduct of the business of the Board.
- (3) All proceedings of the Board shall be authenticated by the signature of the Chairman and Member Secretary and all other orders and other instructions issued by the Board

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shall be authenticated by the signature of the Chairman and Member Secretary or such other officer of the Board as may be authorized in this behalf by regulation.

85. Powers and Functions of the Member Secretary

- (1) Subject to the provisions of this Act, the Member Secretary may perform such functions other than those prescribed for the Board under this Act, which would enable proper execution of the provisions of this Act. The State Government may delegate any or all the powers vested in it under this Act, rules and bye-laws to the director/Member Secretary.
- (2) In particular and without prejudice to the generality of the provisions of the section 89, the functions of the .Director Member Secretary may include:
 - (i) supervision of the Market Committees for effective execution of provisions of the Act relating to transaction of agricultural commodities taking place in the market yard;
 - (ii) launch prosecution for contravening provisions of the Act, rules and bye-laws made thereunder;
 - (iii) suggest amendments to the Act and rules framed thereunder for effective execution of the objectives of the Act;
 - (iv) approve bye-laws framed by the Market Committee under this Act and rules;
 - (v) conduct audit of accounts of the Market Committees;

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- (vi) grading and standardization of agricultural produce;
- (vii) approve the budget of the Market Committee;
- (viii) accord sanction to the creation of posts of officers and staff of the Market Committees;
- (ix) appointment and transfer of the members, of the State Agricultural Marketing Services and act as the cadre controlling authority for the personnel of the State Agricultural Marketing Services; .
- (x) acceptance of resignation of the Chairman of the Market Committees;
- (xi) hear appeal from any person aggrieved by an order of the Market Committee;
- (xii) approval of the resolution passed by Market Committee;
- (xiii) removal of Chairman or member/members of the Market Committee; and
- (xiv) inspect or cause to be inspected the accounts and offices of the Market Committee.

86. Powers of Chairman of the Board

The Chairman of the Board shall exercise such powers as may be prescribed under this Act.

Chapter-XI

PENALTY

87. Penalty for contravention of Act, rules and bye-laws

Any person who contravenes any provision of this Act, rules or bye-laws or orders issued thereunder shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

Provided that in the case of a continuing contravention of the provisions of section 42, he shall be liable to be punished with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after the first contravention.

88. Recovery of Market dues

Whenever any person is convicted of any offence punishable under this Act, the Magistrate shall in addition to any fines which may be imposed, recover summarily and pay over to the Market Committee the amount of fees or any other amount due from him under this Act, or rules or bye-laws made thereunder and may, in his discretion, also recover and pay over to the Market Committee the costs of the prosecution.

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89. Cognizance of offences

- (1) No court shall take cognizance of any offence punishable under this Act or any rule or any bye-laws made thereunder except on the complaint made by the Deputy Commissioner or the Chairman, Secretary of the Market Committee or of any person duly authorized by the Market Committee in this behalf.

Chapter-XII

CONTROL

90. Inspection of Markets and inquiry into the affairs of Market Committee

- (1) The Director /Member Secretary may:
- (a) inspect or cause to be inspected the account and office of the Market Committee ;
 - (b) hold inquiry into the affairs of a Market Committee;
 - (c) call from a Market Committee, return, statement, accounts or reports which he may think fit to require such committee to furnish;
 - (d) require a Market Committee to take into consideration:
 - (i) any objection on the ground of illegality, inexpediency or impropriety which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such committee; or

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- (ii) any information he is able to furnish and which appears to him to necessitate the doing of a certain thing by such committee;
 - (e) direct that anything which is about to be done or is being done should not be done, pending consideration of the reply, and anything which should be done but is not being done should be done within such time as he may direct.
- (2) When the affairs of a Market Committee are investigated under this section or the proceeding of any Market Committee are examined by the Director under section 96, the Chairman, Secretary and all other Officers and servants and members of such Committee shall furnish such information -in their possession in regard to the affairs or proceeding of the Market Committee as the Director, or the officers authorized as the case may be, may require.
- (3) Any Officer investigating the affairs of Market Committee under sub-section (1) or the State Government examining the proceeding of any Market Committee under section 98 shall have the power to summon and enforce the attendance of officers or members of the market committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. Where the Director/ Member Secretary has reason to believe that the books and records of a market committee are likely to be tampered with or destroyed or the funds or property off, Market Committee are likely to be misappropriated or misapplied,

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the Member Secretary may issue order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the Market Committee and the officer or officers of the Market Committee responsible for the custody of such books, records, fund and property shall give delivery thereof to the person so authorized.

91. Powers to Remove a member of the Market Committee

- (1) The Board may remove a member or Chairman of the committee where it is of the opinion that he:
 - (a) has been guilty for misconduct or gross negligence of duty as member or Chairman.
 - (b) ceases to hold the qualifications necessary for his being a member or Chairman.
- (2) No order of removal under sub-section (1) shall be passed unless the person concerned has been given reasonable opportunity of submitting an explanation in respect of the allegations against him.
- (3) The Board may suspend any member or Chairman of a Market Committee, who has been served with a notice under sub-section (1) or sub-section (2) as the case may be, and against whom complaints have been received or who commits irregularities after the service of such notice, for a period either from the date of receipt of complaint or from the date the irregularities come to the notice of

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Director/Member Secretary, till the final decision is taken in his case.

92. Supersession of Market Committee

Where the Board is of the opinion that a Market Committee has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the Gazette, supersede the Market Committee.

Provided that, no order of supersession' shall be passed unless the Board has afforded reasonable opportunity to the Market Committee of submitting a written explanation in respect of the allegations against it.

93. Consequences of supersession of Market Committee

Upon publication of the notification superseding a Market Committee under section 92, the following consequences shall ensue;

- (i) all the members including the Chairman of the Market Committee shall, as from the date of publication of the notification, be deemed to have vacated their offices;
- (ii) the State Government/Board shall direct that steps be taken for constitution of a new Market Committee under section 14 and till such time a new Market Committee under section 14 is constituted as aforesaid, the Board shall make such arrangements for carrying out the functions of the market committee as it may deem fit for the period not exceeding

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six months and may, for that purpose, direct that all the functions, powers and duties of the Market Committee and its Chairman, under this Act, shall be performed, exercised and discharged by such person or authority as the Board may appoint in this behalf and such person or authority shall be deemed to be the Market Committee or Chairman, as the case may be.

94. Supersession of the Board

Where the State Government is of the opinion that the Board has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the Gazette, supersede the State Agricultural Marketing Board.

Provided that no order of supersession shall be passed unless the Government has afforded reasonable opportunity to the Board, of submitting a written explanation in respect of the allegations against it.

95. Consequences of Supersession of Board

Upon publication of the notification superseding a Board under Section 94, the following consequences shall ensue:

- (1) all the members including the Chairman of the Board shall, from the date of publication of the notification be deemed to have vacated their offices; and
- (2) the State Government shall direct that steps be taken for constitution of a new Board under this Act and till such

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time a new Board under Section 62 is constituted as aforesaid, the State Government shall make such arrangements for carrying out the functions of the Board as it may deem fit for the period not exceeding six months and may, for that purpose, direct that all the functions, powers and duties of the Board and its Chairman, under this Act, shall be performed, exercised and discharged by such person or Authority as the State Government may appoint in this behalf and such person or Authority shall be deemed to be the Board or Chairman, as the case may be.

96. Powers of Director or Member Secretary to direct Market Committee for amending bye-laws

- (1) If it appears to the Director/Member Secretary that it is necessary or expedient in the interest of a market or Market Committee to make any bye-law or to amend any bye-law, he may, by order, require the Market Committee concerned to make the bye-laws or the amendment of the bye-law within such time as he may specify in such order.
- (2) If the Market Committee fails to make such bye-laws or such amendment of the bye-laws within the time specified, the Director/Member Secretary may, after giving the Market Committee a reasonable opportunity of being heard, by an order make such bye-law or such amendment of the bye-law and thereupon, subject to any order under sub-section (3), such bye-law or such amendment of the bye-law shall be deemed to have been made or amended by the Market Committee in accordance with the provision of this Act or the rules made thereunder and thereupon such bye-law or amendment shall be binding on the Market Committee.

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- (3) An appeal shall lie to the State Government for any order of the Director/Member Secretary under sub-section (2) within thirty days from the date of such order and decision of the State Government on such appeal shall be final.

97. Power of the Director/Member Secretary to prohibit execution or further execution of resolution passed or orders made by the Market Committee

- (1) The Director/Member Secretary may, of his own motion or on report or complaints received, by order, prohibit the execution or further execution of a resolution passed or order made by the Committee or its Chairman or any of its Officers or servants, if it is of the opinion that such resolution or order is prejudicial to the public interest, or is likely to hinder efficient running of the business in any market area, principal market yards or sub-market yard or is against the provisions of this Act or the rules or bye-laws made thereunder.
- (2) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section(1) and continuing in force, it shall be the duty of the Committee, if so required by the Director/Member Secretary to take such action which the Committee would have been entitled to take if the resolution or order had never been made or passed and which is necessary for preventing the Chairman or any of its officers or servants from doing or continuing to do anything under the resolution or order.

**98. Power to call for proceedings or Market Committee by
Member Secretary**

- (1) The Director/Member Secretary may, on his own motion, or on an application made to him, call for and examine the proceeding of any Market Committee and the State Government may of its own motion or an application made to it, call for and examine the proceedings of the Director or Member/Secretary, for the purpose of satisfying himself or itself as the case may be, as to the legality or propriety of any decision taken or order passed and as to the regularity of the proceedings of the Committee or the Director/Member Secretary, as the case may be. If in any case, it appears to the Director/Member Secretary or the State Government that any such decision or order or proceeding so called for should be modified, annulled, reversed, or remitted for reconsideration he or it may pass such order thereon as he or it may deem fit.

Provided that every application to the State Government for the exercise of the powers under this section shall be preferred within sixty days from the date on which the decision or order to which the application relates was communicated to the applicant:

Provided further that, no such order shall be passed under sub-section (1) without giving a reasonable opportunity of being heard to the parties affected thereby.

- (2) The State Government may suspend the execution of the decision taken or order passed by the market committee

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Director/Member Secretary, pending the exercise of its powers under sub-section (1).

99. Liability of Chairman, Members and employees for loss, waste or misappropriation

- (1) If in the course of inquiry or inspection under section 89 or in the course of audit under this Act, it is found that any person who is or was entrusted with the management of Market Committee or any deceased, past or present Chairman, Member, officer-in-charge of Market Committee, Secretary or any other officer or employee of Market Committee or an officer of the State Government has made or directed by assenting or concurring or participating in any affirmative vote or proceeding related thereto, any payment or application of any money or other property belonging to, or under the control of such Committee to any purpose contrary to the provisions of this Act or rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property belonging to the Market Committee, the Director/Member Secretary may, on his own motion or on the application of the Market Committee, inquire by himself or direct any officer subordinate to him duly authorized by him by an order in writing in this behalf to inquire into the conduct of such person within two years of the date of report or audit, inquiry or inspection as the case may be.
- (2) If on inquiry made under sub-section (1) the Director is satisfied that there are good grounds for an order under

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this sub-section he may make an order requiring such person, or in the case of a deceased person, his legal representative who inherits his estate, to repay or restore the money or property and any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent as the Director/Member Secretary may consider just and equitable:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard in the matter.

Provided further that the liability of a legal representative of the deceased shall be to the extent of the property of the deceased which is inherited by such legal representative.

- (3) Any person aggrieved by an order made under sub-section (2) may, within thirty days from the date of communication of the order to him, appeal to the State Government and the order of the State Government shall be final and conclusive:

Provided that in computing the period of limitation the time required for obtaining a copy of the order appealed against shall be excluded.

- (4) No order passed under sub-section (2) or sub-section (3) shall, be called in question in any Court of law.
- (5) Any order made under sub-section (2) or sub-section (3) shall, on the application of the Director be enforced by any Civil Court having local jurisdiction in the same manner as

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if it were a decree of such court, or any sum directed to be paid by such order may be recovered.

- (6) If the Director is satisfied on affidavit, inquiry or otherwise, that any person with intention to delay or obstruct the enforcement or any order that may be passed against him under this section is about to dispose of the whole or any part of his property, or is about to remove the whole or any part of his property from the State, he may, unless adequate security is furnished, direct, the conditional attachments of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as it may by a competent Civil Court.

100. Power of the State Government to amend schedule

The State Government may, by notification, add or amend or delete any of the items of agricultural produce specified in the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

Provided that no notification shall be issued under this section without giving in the Gazette previous notice of not less than 45 days as the State Government may consider reasonable of its intention to issue such notification.

101. Power of the State Government to give directions

- (1) The State Government may give directions to the Board and Market Committees.

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- (2) The Board and the Market Committees shall be bound to comply with directions issued by the State Government under sub-section(l) of this section.

102. Recovery of Sums due to Board/Market Committee

Any sum due to a Market Committee or the Board on account of any charge, costs, expenses, fees, rent or any other account under the provision of this Act or any rule or bye-laws made thereunder shall be recoverable as arrears of land revenue.

103. Chairman, Members, Member Secretary, Officers and other servants of the Board and Market Committee to be public servants.

The Chairman, Members, Member Secretary, other officers and servants of the Board, and the Chairman, the Members, Secretary and other servants of the Market Committee shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code, 1860, (No. 45 of 1860)

104. Delegation of powers

- (1) The State Government may delegate to the Board or an officer of the State Government not below the rank of Director any of the powers conferred on it by or under the Act other than the powers to make rules under section 109.

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(2) The Director may delegate any of his powers to any Officer of the State Government not below the rank of officer of Class -II Cadre.

105. Bar to civil suits and protection to persons acting in good faith

No suit, prosecution or legal proceedings in respect of anything done in good faith or intended to be done under this Act or rules or bye-laws made thereunder, shall lie against the Director/ Member Secretary or Officer of the State Government or against the Board or any Market Committee or against any officer or servant of the Board or any Market Committee or against any person acting under and in accordance with the directions of the Director/ Member Secretary, such officer, or such Committee.

106. Bar to suits in the absence of notice

Notwithstanding anything contained in any section of any Act, no suit shall be instituted against the Board or any Market Committee, until the expiration of two months next after notice in writing stating the course of action, name and place of abode of the intending plaintiff, and the relief which he claims has been delivered or left at its office. Every such suit shall be dismissed unless it is instituted within six months from the date of occurrence of the alleged cause of action.

107. Duty of the Local Authority to give information and assistance

It shall be the duty of every Local Authority to give all the necessary information in the possession of or under the control of its officers, to the Market Committee or its officers authorized in that behalf, relating to the movement of notified agricultural produce into and out of the area of the Local Authority, free of any charges. It shall also be the duty of every Local Authority and its officers and staff concerned with the collection of octroi to give all the possible assistance to any officer of the Market Committee in exercising his powers and discharging his duties under this Act.

108. Act not to be invalidated by infirmity, vacancy etc.

No act done or proceeding taken under this Act by the Board, by a Market Committee or a sub-committee appointed by the Board shall be invalidated merely on the ground of:

- (i) any vacancy or defect in the constitution of the Board or sub-committee or any defect or irregularity in the appointment of a person acting as a Member thereof; or
- (ii) any infirmity or defect or irregularity in such Act or proceeding.

Chapter-XIII
RULES AND BYE-LAWS

109. Power to make rules

- (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-
 - (i) other manners of publication of notification under Section 3 (1);
 - (ii) fixation of quantity of sale under sub-section (2) of section 39;
 - (iii) the powers to be exercised and the duties to be performed by the Market Committee and its Chairman;
 - (iv)(a) the procedure and quorum at a meeting of Market Committee; and
 - (b) the form in which account of purchases and processing of agriculture produce to be maintained;
 - (v) the management of market, the procedure for recovery of market fees, fine for evasion of market fees and manner for assessment of market fees in default of furnishing return;
 - (vi) classification of market functionaries for grant of licences, regulation of licences under this Act, the persons required to take out licences, the forms in which, and terms and

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conditions subject to which, such licences shall be issued or renewed;

- (vii) the provisions for the persons by which and the forms in which copies of documents and entries in the books of the Market Committee may be certified and the charge to be levied for the supply of such copies;
- (viii) the kind and description of weights and measures and the weighing and measuring instruments which shall be used in the transactions in the notified agricultural produce in a market yard; the periodical inspection of all weights and measures and the weighing and measuring instruments in use in a market yard;
- (ix) the trade allowance which may be made or received by any person in any transaction in the notified agricultural produce in a market yard;
- (x) facilities for the settlement of any dispute between a buyer and seller of notified agricultural produce or their agents including disputes regarding the quality or weight of the articles, payment in respect of the price of goods sold and the allowances for wrapping, containers, dirt or impurities or deductions for any cause by mediation, arbitration or otherwise;
- (xi) the provision of accommodation for storing any agricultural produce brought into the market;
- (xii) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the

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Market Committee, and the grant of such plans and estimates;

- (xiii) the forms in which the accounts of a Market Committee shall be kept, the audit and publication of such audit and the inspection of audit memoranda of the account and supply of such memoranda;
- (xiv) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a Market Committee;
- (xv) the time during which and the manner in which a trader or commission agent shall furnish such returns to a Market Committee as may be required by it;
- (xvi) the regulation of advance, if any given to agriculturists by commission agents or traders;
- (xvii) the grading and standardization of the agricultural produce;
- (xviii) the keeping of records of arrivals and prices of agricultural produce;
- (xix) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in a market;
- (xx) the recovery and disposal of fees leviable by or under this Act;
- (xxi) compounding of offences and fixing compensation thereof, under this Act or rules or bye-laws made thereunder;

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- (xxii) manner of constitution of State Agricultural Marketing Services;
- (xxiii) recruitment, qualification, appointment, promotion, scale of pay, leave allowance, acting allowance, loans, pension, gratuity, annuity, compassionate funds, dismissal, removal, conduct, departmental punishment, appeals and other service conditions of the members of the State Agriculture Marketing services;
- (xxiv) limit of expenditure which may be incurred on reception of distinguished guests;
- (xxv) limits of honorarium to Chairman, traveling allowances to Members and sitting fees payable to Members for attending the meetings;
- (xxvi) manner of investment of surplus in the Market Committee fund;
- (xxvii) procedure for framing of bye-laws, their amendments or cancellation and for their previous and final publication;
- (xxviii) classification of Market Committees on the basis of annual income for all or any of the purposes of this Act;
- (xxix) terms of the office of the Chairman, and Members of the Board;
- (xxx) the powers to be exercised by the Chairman and the Member Secretary of the Board;
- (xxxi) all matters required to be prescribed by rules, under this Act;

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- (xxxii) mode of services of notice under this Act;
 - (xxxiii) general guidance of the Market Committee.
- (3) In making any rules, the State Government may direct that breach thereof shall be punishable with fine which may extend to two hundred rupees.
- (4) Every rule made under this Act shall be laid, as soon as may be, before the Legislative Assembly which shall have the power to amend or annul any rule by a motion adopted in that behalf.

110. Power to make bye-laws

- (1) Subject to the provisions of this Act and the rules made thereunder, a Market Committee may, in respect of a marketing area under its management, make bye-laws for:
- (i) the regulation of business of the market committee;
 - (ii) the conditions of trading in a market area;
 - (iii) the delegation of powers, duties and functions to the officers and servants, appointment, pay, punishment, pensions, gratuities, leave, leave allowances, contributions by them to any provident fund which may be established for the benefit of such officers and servants and other conditions of service;
 - (iv) the delegation of powers, duties and functions to a sub-committee, if any;

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- (v) the market functionaries who shall be required to take licence;
 - (vi) any other matters for which bye-laws are to be made under this Act or it may be necessary to frame bye-laws for effective implementation of the provisions of this Act and the rules made thereunder in the market area.
- (2) No bye-law under sub-section (1) of this section shall take effect until it has been approved by the Member Secretary.
- (3) In making any bye-laws, the Market Committee may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees and where the breach is a continuing one with an additional fine which may extend to ten rupees per day.

Chapter-XIV

REPEAL AND SAVINGS

111. Repeal and Savings

- (1) The Nagaland Agricultural Produce Marketing (Regulation) Act, 1985 is hereby repealed.
- (2) Notwithstanding such repeal,
 - (i) anything done or any action taken (including any appointment, delegation or declaration made, notification under rule, direction or notice issued, bye-laws framed, market area, markets, sub-markets and yards declared,

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established or notified, licenses granted, fees levied and collected, instruments executed, any fund established or constituted) by or under the provisions of the repealed Act shall in so far it is not inconsistent with the provision of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force unless and until superseded by anything done or any action taken under this Act;

- (ii) the Chairman and Members of any Market Committee constituted under the repealed Act shall continue in office until the expiry of their term or until a Market Committee is constituted in accordance with the provisions of this Act, whichever is earlier:

Provided the State Government may at any time by a notification dissolve a market committee constituted under the repealed Act.

112. Power to remove difficulty

The State Government shall have powers to make suitable orders as may be necessary to remove any difficulty arising in implementation of this Act.