



The Nagaland Agricultural Produce Marketing (Regulation) Act, 1985

Act 1 of 1989

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THE NAGALAND AGRICULTURAL PRODUCE MARKETING (REGULATION) ACT, 1985.

(THE NAGALAND ACT NO 1 OF 1989)

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An

Act

to provide for the better regulation of marketing of agricultural produce and establishment and proper administration of markets for agricultural produce and matters connected therewith in the State of Nagaland.

Whereas sanction of the President of India under the proviso to clause (b) of Article 304 of the Constitution of India has been obtained.

It is hereby enacted by the Legislature of the State of Nagaland in the thirty seventh year of the Republic of India as follows :

CHAPTER-1 PRELIMINARY

Short Title, Extent and commencement

1. (1) This Act may be called the Nagaland Agricultural Produce Marketing (Regulation) Act, 1985.
- (2) It extends to the whole of the State of Nagaland.
- (3) It shall come into force on such date as the State Government may, by notification, appoint and different date may be appointed for different areas.

Definition

2. In this Act, unless the context otherwise requires :

- (1) **“Marketing”** means buying and selling of agricultural produce and includes grading, processing, storage, transport, channels of distribution, and any other function associated with the buying and selling.
- (2) **“Agricultural produce”** means all produce and commodities, whether processed or unprocessed of agricultural, horticulture, sericulture, forest produce, hides and animal skins, bristle, animal husbandry, viticulture, apiculture, pisciculture or as specified in the schedule or declared by the Government by notification and also includes admixture of two or more of such produce.
- (3) **“Agriculturist”** means a person who ordinarily by his own labour or by the labour of any member of his family or who by the labour of his tenants or by servants or hired labour or otherwise, is engaged in the production or growth of agricultural produce, but does not include trader, commission agent, processor or broker or a partner in the trading firm or industrial concern in or in relation to Agricultural Produce.

If a question arises whether any person is an agriculturist or not for the purpose of this Act, the decision of the Deputy Commissioner of the District in which such person is engaged in the production or growth of agricultural produce shall be final.

- (4) **“Market Functionary”** means a dealer, a broker, a commission agent, buyer, porter, processor, a stockist, a trader and such other person as may be declared under rules or bye-laws to be a market functionary.
- (5) **“Broker”** means an agent who, in consideration of a commission merely negotiates and brings about a contract for his principal, but does not receive, deliver, transport, pay for the purchase

of or collect the payment for the sale of the notified agricultural produce.

- (6) **“Buyer”** (purchaser) means a person, a firm, a Company or Co-operative society or of Government Agency, public Undertaking/Public Agency or Corporation, Commission Agent, who himself or on behalf of any person or agent buys or agrees to buy agricultural produce in the market areas as notified under this Act.
- (7) **“Commission Agent”** means a person who, in the ordinary course of business, makes or offers to make purchase or sale of agricultural produce, on behalf of the seller or purchaser of agricultural produce within or out side the market area or keeps it in his custody and controls it during the process of its sale or purchase and collects payment thereof for a commission or Arhat.
- (8) **“Seller”** means a person who sells or agrees to sell any agricultural produce and includes a person who sells on behalf of any other person as his agent or servant or commission agent.
- (9) **“Trader”** means any person who in his normal course carries on the business of buying or selling, storing or processing of any notified agricultural produce as a principal or as a duly authorised agent.
- (10) **“Porter”** means a labourer, hamal or coolie or engaged for Dara-making loading, unloading, filling, stiching, emptying or carrying any agricultural produce in the notified market area.
- (11) **“Director”** means a person appointed by the State Government by notification, as Director of agricultural Marketing and includes any officer or officers empowered by the State Government by notification, to exercise or perform such of the powers for functions of the Director under the

provisions of this Act or the Rules or the Bye-laws made thereunder as may be specified in such notification.

- (12) **“Licence”** means a licence granted under this Act.
- (13) **“Licensee”** means a person or association, firm, company, Public Sector Undertaking or Society holding a licence issued under this Act.
- (14) **“Local Authority”** means for the purpose of representation on the market committee in relation to an area within the local limits of (i) In any Municipal area, Town Committee or the notified Committee or local Authority for the area (ii) In any rural area, the Village Council, or Area Council or any other named constituted under Nagaland Village & Area Council Act, 1978.
- (15) **“Market Area”** means area notified under Section 4 of this Act.
- (16) **“Market Proper”** means any area including all lands with the buildings and structures thereon within such distance of the principal or sub-market Yard as the State Government may, by a notification, declare it to be Market Proper.
- (17) **“Principal Market Yard”** in relation to a Market area means a specified place and includes any enclosures, buildings or locality declared as such in any market area by the State Government or the Director by notification.
- (18) **“Sub-Market Yard”** in relation to a Market area means a specified place and includes any enclosures, building or locality declared as such in any market area by the State Government by notification.
- (19) **“Notified Agricultural Produce”** means any agricultural produce notified under Section 4 of this Act.

- (20) "**Processing**" means prescribed by Rules made under this Act.
- (21) "**Prescribled**" means any one or more of a series of treatments relating to powdering, crushing, decorticating, husking, parboilling, polishing, grinding, pressing, curing or any other manual mechanical, chemical or physical treatment to which raw agricultural produce or its product is subjected to.
- (22) "**Processing**" means a person who processes any notified agricultural produce on his own accord or on payment of a charge.
- (23) "**Regulation**" means regulation made by the Board or Market Committee in accordance with the provisions of this Act.
- (24) "**Board**" means the State Agricultural Marketing Board, established under Section 51 of this Act.
- (25) "**Market Committees**" means the Agricultural Produce Market Committee established under this Act.
- (26) "**Secretary**" means the Secretary of Market Committee and includes any other officer who is the Chief Executive Officer of the Market Committee.
- (27) "**Rules**" means rules made under this Act.
- (28) "**Bye-laws**" means bye-laws made under rules framed under this Act.
- (29) "**Trade allowances**" means anything realised in cash or in kind by the purchaser from seller in any transaction relating to agricultural produce, either by deduction from the price agreed upon or otherwise.
- (30) "**Retail Sale**" in relation to a notified agricultural produce means a sale not exceeding such quantity as the market committee may, by bye-laws, determine to be retail sale in respect thereof.

(31) **“Deputy Commissioner”** means the Deputy Commissioner of the district and includes an Additional Deputy Commissioner.

(32) **“Market Charges”** include charges on account or in respect of commission, brokerage, weighing, measuring, hamali (loading, unloading and carrying, cleaning, drying, sieving, stitching, stacking, hiring, gunny-bags, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing.

CHAPTER-II ESTABLISHMENT OF MARKETS

Notification of intention of regulating marketing of notified agricultural produce in specific area.

3. (1) The State Government may, by notification, and in such other manner as may be prescribed, declare its intention of regulating the marketing of such agricultural produce and such area 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 within a period of not less than forty five days to be specified in the notification, shall be considered by the State Government.

Declaration of market area and regulation of marketing of specified agricultural produce therein.

4. After expiry of the period specified in the notification issued under Section 3 and after considering such objections and suggestions as may be received before such expiry and making such enquiry, if any as may be necessary, the State Government may by another notification issue, declare the area specified in the notification issued, under Section 3 or portion thereof to be a 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 regulated under this Act in such market area.

Alteration of market area and items of regulated agricultural produce.

5. (1) Subject to the provision specified in Sections 3 and 4, the State Government may, at any time by notification, exclude from any market area or include therein an additional area or may declare that the regulation of the marketing of any agricultural produce in any market area shall cease or that marketing of any agricultural produce (hitherto not regulated) shall be regulated in such market area :

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

- (2) Where a notification is issued under sub-section (1) excluding area from any market area and such excluded area is not declared to be a separate market area or a notification is issued under sub-section (1), including any area within the market area, the Market Committee constituted for such market area before the date of exclusion or inclusion shall, notwithstanding anything contained in this Act, continue to be the market committee for the said market area until reconstitution of such Market Committee under this Act.
- (3) When any area ceases to be market under sub-section (1) the market committee constituted thereof shall cease to exist, and the property and rights vested in any such Market Committee shall

subject to all charges and liabilities effecting the same, vest in the State Government.

- (4) Where any such area is included in two or more other market area the State Government shall, by order direct that such property rights, charges and liabilities shall vest in the Market Committees of such area in such manner and in such proportions as may be specified in such order.

Amalgamation/Division of Market Committee

6. Where the State Government is satisfied that for securing efficient regulation of marketing of any agricultural produce in any market area, it is necessary that two or more Market Committees therein should be amalgamated, then the State Government may after consulting the Market Committees concerned provided for the amalgamation of such Market Committees into a single Market Committee for the market area in respect of the agricultural produce specified in the notification, with such constitution, property, rights, interest and authorities and such liabilities, duties and obligations including provisions in respect of contracts, assets, employees, proceedings, and such incidental, consequential and supplementary matters may be necessary to give effect to such amalgamation as may be specified in the notification.

Division of Market area into two or more separate market areas

7. (1) Subject to the procedure specified in Section 3 and 4 the State Government may divide a market area into two or more separate market areas.
- (2) When during the term of a Market Committee, the market area for which it is established is divided into two more separate areas, the following consequences shall ensure

- (a) the Market Committee constituted for the market area under this Act shall be deemed to have been dissolved and the State Government shall constitute separate Market Committee under Section 13 for each of the separate market area subject to such condition as may be prescribed :
 - (b) the term of office of the newly constituted Committee shall be the same as is applicable to the first Market Committee under sub-section (1) of Section 13;
 - (c) the assets, rights and liabilities of the dissolved Market Committee shall be distributed by the State Government between the new market committee in accordance with such rule as may be prescribed;
 - (d) any appointment notification, notice, fee, order, scheme, licence, permission, by-law or form made, issued or imposed by the Market Committee which has been dissolved, in respect of any part of the area subject to the authority of the new Market Committee shall be deemed to have been made, issued or imposed by such Market Committee concerned unless and until it is superceded by any notification, notice, fee, order, scheme, licence, permission, rule, bye-law or form made, issued or imposed by it.
- (3) If any difficulties arise in giving effect to the provisions of this Section, the State Government may by order publish in the official gazette the occasion may require, do anything which appear to it to be necessary to remove the difficulty.

Market/Market yards/Sub-Market yards and Market proper

8. (1) For every notified market area, there shall be one principal market yard and one or more sub-market

yards corresponding to market proper, as may be necessary.

- (2) The State Government shall, as soon as may be, after the issue of notification under Section 4, by notification :
 - (a) declare any specified place including any structure, enclosure, open place or locality, in the market area whether vested in the Market Committee of the market area or not, to be a market yard or sub-market yard for such notified agricultural produce as may be specified in such notification, and
 - (b) declare, in relation to such market yard or sub market yard any specified area in the market to be a market proper.

Control of Marketing of notified agricultural Produce

9. On the establishment of a market under Section 4 :
 - (a) No local authority shall, notwithstanding anything contained in any law for the time being in force, set up, establish or continue or allow to be set up, established, continued or used any place in the market area market proper for the marketing of any notified agricultural produce except in accordance with the provision of this Act provided that a local authority may establish or continue any place for retail sale of any notified agricultural produce subject to the condition that no market functionary shall operate in such place except in accordance with the provisions of this Act, and the rules and the bye-laws and standing orders of the Market Committee;
 - (b) no person shall except in accordance with the provisions of this Act and the rules and bye-laws made thereunder;

- (i) use any place in the market area for the marketing of the notified agricultural produce; or
- (ii) operate in the market area as Market functionary in relation to the marketing of the notified agricultural produce;

Provided that nothing herein shall apply to :

- (a) the sale or purchase of such agricultural produce :
 - (i) the producer whereof is himself its seller and such sale is made to a person who purchases it for his own private consumption;
 - (ii) the person who purchases such produce within the market yard or sub-market yard, as the case maybe, from a trader for retail sale :
- (b) Agricultural produce which is purchased by an authorised fair price shop dealer from the Food Corporation of India, or any other agency or institution authorised by the State Government for distribution through the public distribution system :
- (c) The transfer of such agricultural produce to a Co-operative Society, warehouse or a Bank for the purpose of securing an advance therefrom :

CHAPTER-III

CONSTITUTION OF MARKET COMMITTEES

Establishment of Market Committee and its incorporation

10. (1) For every market area, there shall be a Market Committee having jurisdiction over the entire market area :
- (2) Every Market Committee shall be a body corporate by such names 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 be subject 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 time being in force, every market committee shall for all purposes be deemed to be a local authority.

Vesting of property of local authority in Market Committee

11. (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 yard and which immediately before 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 or building, as the case may be, to the Market Committee on such terms as may be agreed upon between them.

- (2) Where within a period of thirty days from the date 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 local authority shall be paid such compensation as may be determined by the Deputy Commissioner under subsection (5) :

Provided that no compensation shall be payable to a local authority in respect of any land or building which had 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 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 deliver 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 regard to :
 - (i) The annual rent for which the building might reasonably be expected to be let from year to year;
 - (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.
 - (v) 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 instalments not exceeding ten as the Deputy Commissioner may fix. Where the

compensation is paid in instalments, it shall carry interest at the rate of six percent per annum which shall be payable alongwith the instalments.

Acquisition of land for Market Committee

12. (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 Market Committee, as the case may be proceed to acquire such and under the provisions of the Land Acquisition Act of Nagaland and on the payment of the compensation awarded under that Act by the Board or Market Committee and 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 :

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 and vests in 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.

Appointment of Officer in charge of Committee Incharge pending Constitution of first Market

13. (1) When a Market Committee is established for the first time under this Act, the State Government shall by an order appoint;
- (a) a person to be the officer-in-charge, for a period not exceeding two years, or

- (b) a Committee consisting of not more than eleven members to be the Committee-in-charge. The Market Committee may be appointed from among persons representing the same interest and in the same proportion as specified in Section (14) of the Act, for a period not exceeding one year. The Officer-in-charge or the Committee in charge shall subject to the control of the Director, exercise all the powers and perform all the duties of the Market Committee under this Act.

Provided that the State Government may at any time during the period aforesaid appoint Committee-in-charge in place of officer- in-charge and officer-in-charge in place of committee-in-charge, as the case may be, person 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 thereto by the State Government and until such appointment is made, a person nominated by the Deputy Commissioner 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 a 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 on the Committee-in-charge under clause

(a) of sub-section (1) may at anytime be removed by the Director who shall have power to appoint another person or persons as the case may be, in his or their place or places.

- (4) Every person appointed officer-in-charge under sub-section (1) shall receive from the Market Committee fund for his service such pay and allowance as may be fixed by the Director and every member of the Committee-in-charge shall be entitled to receive from the Market Committee fund allowances as are payable to members of the Market Committee.

Constitution of the Market Committee

14. (1) Save as provided in section 13, every Market Committee shall consist of the following members, namely :

- (i) Six members of which one belonging to Scheduled Caste/Scheduled Tribe community shall be agriculturalist possessing such qualification as may be prescribed to be elected by the village members of the notified market area in the manner prescribed :

Provided that the agriculturist may include owner of the cattle whenever the Market Committee is constituted for cattle market.

- (ii) Two members shall be licenced traders elected amongst themselves in the manner prescribed :

Provided that the minority traders are adequately represented whenever the market deals with more than one of commodities i.e. fruits and vegetables, grains etc.

- (iii) One member shall be representative of the cooperative marketing Society/Societies nominated by the Registrar of Co-operative Society;

Provided that such representative shall be the Chairman or Vice-Chairman or Honorary Secretary of the Co-operative Marketing Society.

- (iv) Two members shall be Government nominees out of which one member shall be representative of the State Department of Agricultural Marketing and one member shall be the representative of the State Agricultural or Cooperative Department.
- (2) A member elected under clauses (i) (ii) and (iii) of sub-section (1) shall cease to hold office as such member if he ceases to be a member of the electorate by which he was elected :
- (3) The State Government may make rules to provide for the election of the members of the Market Committee the authority which shall conduct election, determination of constituencies, the preparation and maintenance of the list of voters, disqualification for being chosen as and for being a member, the right to vote, the payment of deposit and its future election offences, the determination of election disputes and all matters ancillary thereto.
- (4) On the failure of the electorate mentioned in the clause (i) and (ii) of sub-section (1) to elect a member referred to in the clause after the election proceeding have been started in accordance with the Provisions of this Act, and the rules made thereunder the State Government shall nominate on behalf of one electorate concerned a person or persons qualified to be a member or members of the Market Committee.
- (5) Members of every Market Committee shall hold office for a period of three/ five years form the date of the first general meeting of the Market Committee.

- (6) If within the period mentioned, in sub-section (5), the Market Committee is not newly constituted, the Market Committee shall, on the expiry of such period, be deemed to have been dissolved.
- (7) An elected member of the Market Committee may resign his office at any time by a letter in writing addressed to the Director/Board 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/Board.
- (8) In the event of 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 election or nomination, as the case may be, of a person thereto as member, who shall take office forthwith and shall hold such office for the unexpired term of his predecessor provided that no casual vacancy shall be filled which occurs within a period of four months preceding the date on which his term expires.
- (9) The chairman and other members of the Market Committee shall be paid from the Market Committee fund such honorarium, sitting fees, travelling allowances and other allowances as may be fixed by the Director from time to time.

Chairman and Vice-Chairman of Market Committee.

15. (1) Every Market Committee shall have a Chairman and Vice Chairman. The Chairman shall be elected by the elected members of the Market Committee from amongst those who are representatives of agriculturists. The Vice-Chairman shall be elected by the elected members of the Market Committee from amongst themselves;

- (2) After every general election, the Market Committee shall elect the Chairman and Vice-Chairman at its first general meeting which shall be convened by the Director within one month of the general election. The Chairman and Vice-chairman so elected shall hold office for the full term from the date on which they enter upon their respective offices.
- (3) the Chairman and Vice-Chairman shall notwithstanding the expiry of their term of office, continue to hold office until their successors enter upon their office.
- (4) The meeting convened for the election of the Chairman and Vice Chairman shall be presided over by the Director or any officer authorised by him in this behalf. The Director or such officer, when presiding over a meeting, have the same power as the Chairman when presiding over a meeting of the Market Committee but shall not have the right to vote.
- (5) If in the election of Chairman and Vice Chairman, there is an equality of votes, 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 or Vice-chairman the Deputy Commissioner, if he is the presiding officer, shall decide the dispute himself and in any other case officer presiding shall refer the dispute to the Deputy Commissioner for decision. The decision of the Deputy Commissioner shall subject to an appeal to the Commissioner be final and no suit or other proceeding shall lie in any court of law in respect of such decision.

- (7) (i) Where the Director is satisfied that books and record of a market Committee are likely to be suppressed, tempered with or destroyed or the funds and property of Market Committee are likely to be misappropriated or misapplied the Deputy Commissioner or the person authorised by him may apply to the executive Magistrate within whose jurisdiction the Market Committee is functioning for seizing and taking possession of the record and property of the Market Committee.
- (ii) On receipt of the application under sub-section (i) the Magistrate may authorise any police officer not below the rank of Sub-Inspector to 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 Deputy Commissioner or the person authorised by him, as the case may be.

Resignation by Chairman and Vice Chairman and vacancy in their office

16. (1) A member holding office of Chairman or Vice-Chairman may resign his office at any time in writing addressed to the Deputy Commissioner 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 the resignation in writing addressed to the Deputy Commissioner.
- (2) Every Chairman and Vice-Chairman shall vacate office if he ceases to be member of the Market Committee.
- (3) During the vacancy caused by death, resignation, removal or otherwise and the office of the Vice-chairman is also vacant then, notwithstanding anything contained in this Act, such member of the

Market Committee as the Deputy Commissioner may appoint shall exercise the powers and perform the functions of the Chairman till the Chairman is duly elected.

No Confidence Motion against Chairman or Vice-Chairman

17. (1) A motion of no confidence may be moved against the Chairman or the Vice-Chairman at a meeting especially 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 present and voting and if such majority is more than one half of the total number of members constituting the market committee for the time being, the Chairman or the Vice-Chairman, as the case may be, against whom such motion is passed shall cease to hold his office with effect from the date immediately next after the date of which motion is passed.
- (2) For the purpose of sub-section (1) a meeting of the Market Committee shall be held in the prescribed manner within thirty days of the date of receipt of the notice of motion of no confidence.
- (3) The Chairman or Vice-Chairman shall not preside over the meeting but such meeting shall be presided over by an officer of the Government as the Director may appoint for the purpose. However, the chairman or the Vice-Chairman, as the case may be, shall have a right to speak and otherwise to take part in the proceedings of the meeting.
- (4) If the motion of no confidence is not carried 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 or Vice Chairman shall be made until after

the expiry of six months from the date of such meeting.

CHAPTER-IV

CONDUCT OF BUSINESS AND POWERS AND DUTIES OF MARKET COMMITTEE

Meeting etc. of the Market Committee

18. (1) Subject to the provisions of this Act, the Market Committee shall conduct the business in accordance with the rules made for the purpose.
- (2) A Market Committee shall meet for the transaction of its business at least once in every quarter, provided that the Market Committee may in special circumstances meet at any time and at any place in the market area as may be prescribed.

Powers and duties of Market Committee

19. (1) Subject to the provisions of this Act, it shall be the duty of the Market Committee :
 - (i) to implement the provisions of this Act, the rules and bye-laws made thereunder in the market area;
 - (ii) provide such facilities for marketing of agricultural produce therein as the Director 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 for regulating Marketing of agricultural produce in any place in the market area, and for purposes connected with the matters aforesaid and for that purposes may exercise such powers and discharge such functions as may be provided by or under this Act.
- (2) Without prejudice to the generality of the foregoing provisions :

- (a) a Market Committee may :
- (i) maintain and manage the market yard and sub-market yard within the market area;
 - (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) grant or refuse licences to market functionaries and renew, suspend, or cancel such licences, supervise that conduct of the market functionaries and enforce condition of licences;
 - (iv) regulate or supervise the auction of notified agricultural produce in accordance with the provision laid down under the rules made under this Act or bye-laws of the marketing 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 sales, weighment, delivery, payment and all other matters relating to the marketing of notified agricultural produce in the manner prescribed;
 - (vii) organise grading of notified agricultural produce;
 - (viii) 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 in the manner prescribed;

- 5
- (ix) arrange for collection of such agricultural produce in the market area in which all trade therein is to be carried on exclusively by the State Government by 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;
 - (x) collect, maintain and disseminate information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce;
 - (xi) take all possible steps to prevent adulteration of goods and promote grading and standardization of the notified agricultural produce;
 - (xii) take measures for the prevention of purchases and sales below the minimum support price as fixed by the Government from time to time;
 - (xiii) levy, take, recover and receive rates, charges, fees and other sums of money 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 yards 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, hold 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 bye-laws by Market Committee, its Chairman or by any officer duly authorised 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) provide facilities such as provision of space for direct sales by a producer and assist a producer by preparing invoices any bills in his behalf when he sells his produce to a trade without employing commission agent;
- (xxi) pay, pension, leave, allowances, gratuities, compassionate allowance and contributions towards leave allowance, pensions or provident fund of the officers and servants employed by the Market Committee in the manner prescribed;
- (xxii) administer Market Committee fund referred to in Section 44 and maintain the account thereof in the prescribed manner;
- (xxiii) keep a set of standard weights and measures in each principal market yard and sub-market yard against which weighing and measurement may be checked;
- (xxiv) inspect and verify scales, weights and measures in use in market area and also the books of accounts and other documents maintained by the market functionaries in such manner as may be prescribed;
- (xxv) arrange to obtain fitness (health) certificate from veterinary doctor in respect of animal, cattle, birds etc. which are bought or sold in the market yard/market area.

- (xxvi) carry out publicity about the benefits of regulation, the system of transaction, facilities provided in the market yard etc. through such means as posters, pamphlets, hoardings, cinema slides, film shows, group meetings etc. or through any other means considered more effective or necessary;
- (xxvii) ensure payment in respect of transactions which take place in the market area to be made on the same day to the seller, and in default to seize the agricultural produce in question alongwith other property of the person concerned :
- (xxviii) make arrangement for weighmen and hammals for weighing and transporting of goods in respect of transactions held on the market yard/sub-market yard;
- (xxix) recover the charges in respect of weighmen and hammals and distribute the same to weighmen and hammals if not paid by the purchaser/seller as the case may be;
- (xxx) with the prior sanction of the State Government or the Director undertake the constructions of roads in the market area to facilitate movement of agricultural produce to the market for benefit of producer, sellers and traders operating in the market area.

Appointment of sub-committee and delegation of power

20. The Market Committee may appoint one or more Sub-Committees consisting of one or more of its members for reporting or giving opinion on any matter relevant to the Market Committee or it may, subject to such restriction and conditions as may be specified in the bye-laws, delegate to any such sub-Committee such of its powers or duties as it may think fit.

Power to levy market fees

21. (1) The Market Committee shall levy and collect market fees in respect of agricultural produce brought in and bought or sold in the market area in a manner and at rates as prescribed in the rules provided that the fees so levied shall not be less than one rupee per one hundred rupees of the price of the agricultural produce.
- (2) For purposes of sub-section (1) all notified agricultural produce leaving market yard shall, unless the contrary is provided be presumed to have been brought within such market yard by the person in possession of such produce.

Power to order production of accounts and powers of entry, inspection and seizure

22. (1) Any officer or servant of the Market Committee/Marketing Board empowered in this behalf, may, for the purposes 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 furnish any information relating to the stocks of such agricultural produce or purchases, sales and deliveries of such agricultural produce by such person and also any other information relating to payment of the market fees and payment to the seller by such person.
- (2) All accounts and registers maintained by any person in the ordinary course of business in any notified agricultural produce and documents relating to the stock of such agricultural produce in his possession and the office, establishments, godowns, vessels or vehicles of such person shall be open to inspection at all reasonable times by such officers and servants of the Market Committee as may be authorised in this behalf.

- (3) If any such officer or servant has reason to suspect that any person is attempting to evade the payment of any market fee or any other charges due from him under this Act or rules or bye : laws or that any person has purchased any notified agricultural produce in contravention of any of the provisions of this Act or the rules or bye-laws in force in the market areas, he may for reasons to be recorded in writing, seize such accounts registers or documents of such person as may be necessary and shall grant a receipt for the same an shall retain the same only so long as may be necessary for examination thereof or for a prosecution.
- (4) For purposes of sub-section (3) such officer or servant may enter or search any place of business, ware house, office, establishment, godown, vessel or vehicle where such officer or servant has reason to believe that such person keeps or for the time being keeps any accounts register or documents of his business, or stock of notified agricultural produce relating to his business.
- (5) The provisions of Section 10 (4) to (8) of the Code of Criminal procedure, 1973, shall, so far as may be, apply to a search under Sub-section (3).

Power to stop vehicle etc.

23. (1) At any time when so required by any officer or servant of a Market Committee, or by marketing Board Director, empowered in this behalf, the driver or any other person incharge of any vehicle, vessel or other conveyance, which is taken or proposed to be taken out of the market area shall stop the vehicle. vessel or other conveyance, as the case may be, and keep it stationary as long as may be reasonably necessary and allowed such

officer or servant to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to the notified agricultural produce carried and give his name and address and the name and address of the owner of the vehicle, vessel or other conveyance and of the owner of the notified agricultural produce carried in such vehicles, vessel or other conveyance.

- (2) The Officer or servant of the Market Committee/Board/State Government empowered under sub:—section (1) shall have power to seize and any notified agricultural produce taken or proposed to be taken out of the market area in any vehicle, vessel, or other conveyance, if such officer or servant has reason to believe that any fee or other amount due under this Act in respect of such produce has not been paid. Such seizure shall forthwith be reported by the officer or servant aforesaid to a Magistrate having jurisdiction to try the offence under this Act and the provisions of Sections 457, 458 and 459 of the Code of Criminal Procedure, 1973, shall, so far as may, apply in relation to the notified agricultural produce seized as aforesaid as they apply in relation to property seized by a police officer.

Power to borrow

24. (1) A Market Committee may, with the previous sanction of the Director/Board raise money or issue debenture required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees livable by it under this Act,

- (2) The Committee may, for the purpose of meeting the initial expenditure on lands, buildings, staff and equipments required for establishing the

market obtain a loan from the State Government or Marketing Board or other financial institution.

- (3) The condition 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 Director or the Board.

Compounding of offence

25. (1) The Market Committee may accept from any person who has committed or is reasonably suspected of having committed an offence (other than contravention of Sections (37) and (38) against this Act or the rules or bye-laws made thereunder 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 with a minimum of rupees two hundred and fifty; and
 - (b) in other cases; a sum of money not exceeding one thousand rupees
- (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 that offence and if any proceedings in respect of that offence have already been instituted against him in any court, the compounding shall have the effect of his acquittal.

Power to write off irrecoverable fee etc.

26. A Market Committee may write off any fee or other amount whatever due to it, whatever under a contract or otherwise or any amount payable in condition therewith if in its opinion such fee or amount is irrecoverable.

Provided that the Market Committee shall, before writing off any such fee or amount obtain the sanction of the Director of Marketing/ Chairman, Agricultural Marketing Board/Chief Marketing Officer, if the fee or amount exceeds Rupees five hundred.

Power to remove encroachment on Market Yard

27. Any officer or servant of the committee of the Board empowered by the State Government in its behalf shall have power to remove any encroachment in any space in the market yard and the expenses of such removal shall be paid by the person who has caused the encroachment and shall be recovered in the same manner as arrears of land revenue.

Use of weighing instruments, weights and measures, their inspection

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

Provided that in transaction of sale and purchase of agricultural produce in the Principal market yard and Sub: — market yard of the notified market area, the beams-scale or platform scale shall only be used.

(2) Every Committee shall keep in that 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 two sets of

measures, verified and stamped in accordance with the provision of the State Weight and Measures Act and the rules framed thereunder. The committee shall cause 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 requirement of the said Act and Rules;

- (3) The Market Committee shall allow any person to check free of charge any weight or measure in his possession against the weights and measures maintained under this Section.
- (4) Weighing instrument, weights and measures kept by Committee under this Section may at any time be inspected, examined and checked by the Director or chairman or the Secretary of the Board or any officer duly authorised in this behalf by the Director, chairman of the Board. After inspection, the inspecting authority may give such directions as it may deem proper. The Committee shall be bound to comply with such directions.
- (5) The Director or Chairman/Secretary of the Board of the Market Committee, and any other person authorised in this behalf by the Director/Chairman of the Board or Market Committee shall be entitled at any time and without previous notice to inspect, examine and test any weighing instruments, weight or measure used, kept or possessed within a notified market area by a licensee under the Act, and every such licensee in possession of any such weighing instrument, weights and measures shall, when required be bound to produce the same before the person entitled so to inspect, examine and test it.
- (6) Any person authorised to inspect, examine and test any weighing instrument, weight or measures

under Sub-section (2) shall while so acting have all the powers of an Inspector, Weights and Measures, appointed under the State Weights and Measures Act.

Mode of making contract

29. (1) Subject to the provision of this Act, no contract or agreement on behalf of the market Committee for the purchase, sale, 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 cases where the powers under this sub-section in respect of any matter are delegated to a Sub-committee, sanction of sub-committee shall be obtained.

- (2) Save as provided in sub-section (1)

- (a) the Secretary of the Market Committee may execute contract or agreement on behalf of the Market Committee where the amount or value of such contract or agreement does not exceed rupees five thousand regarding matter in respect of which he is generally specifically authorised to do so by a resolution of the Market Committee.
- (b) the Chairman and the Secretary of the Market Committee may jointly execute contract or agreement on behalf of the Market Committee when the amount or value of such contract or agreement does not exceed rupees twenty thousand depending on the class of the Market Committee as may be prescribed;
- (c) in any case other than those referred to in class (a) and (b) a contract or agreement on behalf of the market committee shall be executed by the Chairman, the Secretary and

any other member of the Market Committee who should have generally or specially been authorised by a resolution of the 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 authorised to do so under sub-section (2);
- (4) No contract other than a contract executed as provided in sub-section (1), (2) or (3) shall be valid or binding on the Market Committee;
- (5) (a) Notwithstanding anything contained in the Indian Registration Act, 1908 (No 16 of 1908), it shall not be necessary for the Chairman or any member or officer or Secretary of a Market Committee to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of that Act.
(b) Where any instrument is so executed the Registration officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Chairman, member officer, or Secretary for furnishing information respecting the same and shall on being satisfied of the execution thereof, register the instrument.
- (6) 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 and held immediately following the date of entering into of such contract or agreement.

Act of Market Committee etc. not to be invalidated

30. No Act of a Market Committee or of any such committee thereof or of any person acting as a member, Chairman, Vice-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, Vice-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, Vice-Chairman or Secretary or member of such Committee or Sub-Committee or for any other informality not effecting the merit of the case.

CHAPTER-V BUDGET

Preparation and sanction of Budget

31. (1) Every Market Committee shall prepare and pass the budget of its income and expenditure for the ensuing year in the prescribed form and shall submit it to the Director for sanction before the prescribed date every year.

The Director 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 within two months, it shall be presumed to have been sanctioned.

- (2) No expenditure shall be incurred by a Market Committee on any item if there is no provision in the sanctioned Budget therefore unless it can be met by re-appropriation from saving under any other head. The sanction for reappropriation may

be obtained from the Director provided that in case of reappropriation from minor heads under one major head, sanction for reappropriation will not be required.

- (3) A Market Committee at any time during the year for which any Budget has been sanctioned cause a revised or Supplementary Budget to be passed and sanctioned in the same manner as if it were an original Budget.
- (4) A Market Committee shall not take up or give order for execution of any construction work estimated to cost more than rupees twenty thousand without prior permission of the Director even if there is a provision therefore in the sanctioned Budget.
- (5) The Director while according sanction for construction works 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 authorised by the State Government for this purpose.

CHAPTER-VI

STAFF OF MARKETING COMMITTEE

Constitution of State Agricultural Marketing Services

32. (1) The State Government may for the purpose of providing officers to the market committee, constitute in the prescribed manner a service to be called the State Agricultural Marketing Service.
- (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, ap-

peals and other service conditions of the members of the State Agricultural Marketing Service;

Provided that Market Committee shall have power of with-holding promotion and stoppage of increment of the members of the State Agricultural Marketing Service.

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

Secretary of Market Committee.

33. (1) Every Market Committee shall have a Secretary who shall be the Chief Executive Officer and 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- law namely :-

- (i) convene the meetings of the Market Committee and of the Sub- committees if any, and maintain minutes of the proceedings thereof;
- (ii) attend the meetings 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-committee, and report about all actions taken in pursuance of such resolution, to the committee as soon as possible;
- (iv) prepare the Budget proposals;

- (v) finish to the Market Committees such returns, Statement, estimates statistics and reports 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 or the standing orders by any person; (d) regarding the suspension or cancellation of licences by the Chairman or the Director; (e) regarding the administration of the Market Committee and the regulation of the marketing;
- (vi) produce before the committee such documents books, registers and the like as may be necessary for the transaction of the business of the Committee or the Sub-committees and also whenever called upon by the Market Committee to do so;
- (vii) exercise supervision and control over the acts of all officer and servants of the Committee;
- (viii) collect fees and other moneys leviable by or due to the Market Committee;
- (ix) be responsible for all moneys credited to or received on behalf of the Market Committee;
- (x) make disbursements of all moneys lawfully payable by the Market Committee;
- (xi) report to the Chairman and Director or the Board as soon as possible in respect of fraud, embezzlement, theft or loss of Market Committee fund or property;
- (xii) prefer complaints in respects of prosecutions to be launched on behalf of the Market Com-

mittee and conduct proceedings civil or criminal on behalf of the Market Committee.

- (2) The Secretary shall be a member of the State Agricultural Marketing Service and shall be appointed by the Director.

Other officers belonging to State Agricultural Marketing Service.

34. There shall be such other Officers to every Market Committee who shall be members of the State Agricultural Marketing Service as the State Government may determine and they shall be appointed by the Director provided that an officer may be appointed for more than one Market Committee.

Appointment of Secretary and other officers pending constitution of State Agricultural Marketing Service.

35. Pending the constitution of the State Agricultural Marketing Service under Section 32 or when no member of such service is available for appointment as Secretary or other officer under Section 33 and 34 the State Government or the Director or the Board may depute an officer of the Government to act as Secretary or such other officer.

Appointment of Staff by the Market Committee.

36. Every Market Committee may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties :

Provided that no post shall be created save with the prior sanction of the Director.

**CHAPTER-VII
REGULATION OF TRADING**

Regulation of persons operating in the market area.

37. No person shall in respect of any notified agricultural produce operate in the market area as trader, commission agent, broker, weighman, hummal, surveyor,

warehouse man, owner of occupier or processing or pressing factories or such other market functionary except in accordance with the condition of a licence granted under the provision of this Act and the rules and bye- laws made thereunder.

Power to grant licences.

38. (1) Every person specified in Section 37 who desire to operate in the market area shall apply to the Market Committee for grant of a licence or renewal thereof, in such manner and within such period as may be prescribed bye-law.
- (2) Every such application shall be accompanied by such fee as the Director may subject to the limits prescribed, specify in this behalf.
- (3) The Market Committee may grant or renew the licence or for reasons to be recorded in writing refuse to grant or renew the licence.

Provided that if the Market Committee fails to grant or renew a licence within a period of sixty days from the date of receipt of application therefore the licence shall be deemed to have been granted or renewed, as the case may be.

- (4) All licences granted or renewed under this section shall be subject to provisions of this Act and the rules and bye-laws thereunder.
- (5) The Market Committee may by a resolution passed in that behalf and with the prior approval of the Director or the Board, direct that no commission agent or a broker or both shall act in any transaction between the producer-seller and trader-purchaser, on behalf of producer-seller nor shall he deduct any amount towards commission or dalali from the sale proceeds payable to the producer-seller nor shall he act on behalf of both the buyer and the seller :

Provided that the resolution so passed shall not be revoked by the Market Committee until a period of one year has expired from the date of its approval.

Power to cancel or suspend Licences.

39. (1) Subject to the provision of Sub-section (4) a Market Committee may, for the reason to be recorded in writing, suspend or cancel a licence :-

- (a) if the license been obtained through wilful misrepresentation or fraud;
 - (b) if the holder of the licence or any servant or any one action on his behalf with his expressed or implied permission, commits a breach of any of the terms or conditions of the licence;
 - (c) if the holder of the licence in combination with other holder of licence commits any act or abstains from carrying out his normal business in the market area with the intention of wilfully obstructing, suspending or stopping the marketing of notified agricultural produce in the market yard/yards and in consequence thereof the marketing of any produce has been obstructed, suspended or stopped;
 - (d) if the holder of the licence has become an insolvent;
 - (e) if the holder of the licence incurs any disqualification as may be prescribed; or
 - (f) if the holder is convicted of any offence under this Act.
- (2) (a) Subject to the provisions of sub-section (4) the Chairman of a Market Committee or the person authorised by the Board in this behalf, may for reasons to be recorded in writing, suspend a licence for a period not exceeding one month for any reason for which a Market Committee or the person authorised by the

Board in this behalf may suspend a licence under Sub-section (1).

- (b) Subject to the provisions of sub-section (4) the Secretary of a Market Committee may for reasons to be recorded in writing, suspend a licence for a period not exceeding one week for any reason for which a Market Committee may suspend a licence under sub-section (1)
- (3) Notwithstanding anything contain in sub-section (1), but subject to the provisions of sub-section (4), the Director or the officer authorised by the Board may, for reasons to be recorded in writing, by order suspend or cancel any licence granted or renewed by the Market Committees :

Provided that no order under this sub-section shall be made without notice to the Market Committee.

- (4) No licence shall be suspended or canceled under this Section unless the holder thereof is given an opportunity to show cause against such proposed suspension or cancellation.

Appeal

- 40. (1) Any person aggrieved by an order of the Secretary, Chairman of the Market Committee, authorised person of the Board or the Director under Sub-section (1) or 2 (a) & (b) or (3) of Section 39 as the case may be, may prefer an appeal-
 - (a) to the Director or the officer authorised by the Board where such order is passed by the Market Committee or Chairman or Secretary.
 - (b) to the State Government, where order is passed by the Director/ authorised person of the Board.
- (2) An appeal under sub-section (1) shall be made within a period of thirty days from the passing of such order.

- (3) The Appellate authority may, if it considers necessary to do so, grant a stay of the order appealed against for such period as it may deem fit.
- (4) The order passed by the Chairman, the Market Committee, the Director and the authorised officer of the Board shall, subject to the order in appeal under this Section, be final and shall not be called in question in any court of law.

Prohibition of trade allowances other than prescribed under this Act :

41. (i) No trade allowance, other than an allowance prescribed by or under this Act, shall be made or received by any person in any market area in any transaction in respect of the notified agricultural produce and no civil court shall, in any suit or proceeding arising out of any such transaction, have regard to any trade allowance not so prescribed.
- (2) The weight of a container shall be counter-balanced by the same type of container and no deduction in any form whatsoever shall be allowed for counter balancing the weight of the container : If the same type of container is not available, the weight of the container shall be determined and deducted from the weight of the produce.

Sale of notified agricultural produce in market.

42. All notified agricultural produce brought into the market proper for sale shall be brought into the market yard/yards specified for such produce and shall not, subject to the provisions of the bye-law be sold at any other place outside such yard.

Conditions of buying and selling.

43. (1) Any 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 committee.

- (2) The price of agricultural produce brought in the market yard shall be paid to the seller on the same day of the sale.

CHAPTER-VIII

MARKET COMMITTEE FUND

Market Committee Fund.

44. (1) Save as provided in sub-section (2) all money received by a Market Committee shall be paid into a fund to be 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 made 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 relevant 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 weighman, hammal and other functionaries and such other money received by the Market Committee as may be provided in the rule 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 fund and all other money received by the Market Committee shall be kept in a Cooperative Bank or in Post Office

Saving Bank or with the approval of the Director in any Bank.

Application of Market Committee Fund.

45. Subject to the provisions of Section 44 the Market committee fund may be expended for the following purposes only, namely :-

- (i) the acquisition of a site or sites for the market yards;
- (ii) the establishment, maintenance and improvement of the market yards;
- (iii) the construction and repairs of buildings necessary for the purposes of the market and for convenience or safety of the persons using the market yard :
- (iv) the maintenance of standard weights and measures;
- (v) the meeting of establishment charge 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 employees of the 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 or information relating to crop statistics and marketing of agricultural produce.
- (ix) expenses incurred in auditing the accounts of the Market Committee;
- (x) Payment of honorarium to Chairman, travelling allowances of Chairman, Vice-chairman and other members of the Market Committee and sitting fees payable to members for attending the meeting;
- (xi) Contribution to State Agricultural Marketing Board as prescribed and Consolidated Fund of

the State to the extent required for salary of the employees of the Directorate of Marketing;

- (xii) Contributions to any scheme for development of agricultural marketing, including transport and scientific storage.
- (xiii) to provide facilities like grading services and communication to agriculturist in the market area;
- (xiv) to provide for development of agricultural produce in the Market area;
- (xv) Payment of expenses on elections under this Act;
- (xvi) incurring of all expenses for research, extension and training in marketing of agricultural produce;
- (xvii) prevention, in conjunction with other agencies, State, Central and others distress sale of agricultural produce;
- (xviii) fostering co-operative marketing and assisting co-operative marketing societies in the procurement and organisation of profitable disposal of produce particularly the produce belonging to small and marginal farmers.
- (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.

CHAPTER-IX

MARKETS OF NATIONAL IMPORTANCE

Constitution of the Market Committee for Market of National Importance.

46. (1) Save as provided under sub-section (1) of Section 10 the State Government may by notification establish separate Market Committee for effective implementation of provisions of this Act for such markets located in the State which are considered as the "Markets of National Importance"

- (2) The State Government may, after consideration of such aspects as the turn over, upstream catchment area, down stream servicing (number of consumers served) and price leadership (whether the market influence the price at the National level), declare the markets as "Market of National Importance."

Provided that the markets handling not less than one lakh ton of produce per year (out of which at least 30% of the arrival may be from not less than two other States) may be considered for conferring the status as the 'Market of National Importance' provided such market influences the price of the regulated commodity at the national level :

- (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 'Market of National Importance' under sub section (1) :

Composition of the Market Committee for Markets of National Importance

47. (i) Save as provided under Section 14, sub-section (1), every Market Committee for the Markets of National Importance shall consist of the following members namely :-

- (1) Agriculturists (To be nominated by the State Government from amongst the agriculturists residing in the State) : 5
- (2) Traders to be nominated by the State Government from amongst the traders holding trading licence in any Market Committee in the State : 4

Out of the traders so nominated, at least two shall hold the licence from the Market, Committee of the "Market of National Importance"

- (3) Municipal Commissioner/Town Committee Chairman of the area where the 'Market of National Importance' as located : 1
- (4) The Deputy Commissioner of the District in which 'Market of National Importance' is located : 1
- (5) Chief Town Planner or the authority exercising such powers : 1
- (6) Representative of the Registrar of Co-operative societies : 1
- (7) Director of Marketing of the State or his nominee (Ex-officio member) : 1
- (8) Chief Executive Officer (or his nominee) of the State Agricultural Marketing Board (Ex-officio member). *(prefer ably Grower)* : 1
- (9) Representative of other States where from arrivals are received in the Market of National Importance (To be nominated by the respective State Governments on receipt of request for such nomination by the State Government where Market of National Importance is located). : 3
- (10) Executive Member (To be appointed by the State : Government, Executive member shall act as the Chief Executive officer of the Market Committee. : 1
- (11) (i) Agricultural Marketing Advisor to the Government of India or his nominee.
(ii) The Market Committee shall meet at least once in six months.

Chairman & vice-Chairman of Market of National Importance

48. The Market Committee for Market of National Importance shall have Chairman and Vice-Chairman who may be nominated by the State Government. The members shall hold office during the Pleasure of the State Government.

Executive committee for Market of National Importance

49. (i) There shall be Executive Committee of the Market Committee of the Market of National Importance consisting of

- (1) Chairman of the Market Committee of the Market of National Importance
 - (2) (a) one representative of the traders holding the trading licence in the Market Committee of Market of National Importance.
(b) one representative of growers.
 - (3) Representative of the Registrar of Co-operative Societies.
 - (4) Director of Marketing or his nominee.
 - (5) Chief Executive Officer (or his nominee) of the State Agricultural Marketing Board.
 - (6) Executive Member of the Market Committee who shall act as the Member Secretary of the Executive Committee.
- (ii) In case of emergency, the Executive Committee may decide issues requiring approval of the Market Committee. However, such decisions shall have to be approved by the Market Committee within 45 days from the date such decision have been taken, Failure in doing so or in the event of disapproval of such decisions by the Market Committee, such decisions shall stand null and void.
- (iii) The Executive Committee will meet as often as necessary but, at least once in two months.

Chief Executive of the Market of National Importance, Functions and Powers

50. Executive members of the Market Committee shall act as the Chief Executive Officer of the Market Committee of the Market of National Importance. The Chief Executive shall

- (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 service of the officer and staff of the Market Committee as per the prescribed procedure;
- (ii) appoint officers and staff of the Market Committee as per direction and procedure 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 of stoppage of any work and doing of any act which required the sanction of the Market Committee;
- (v) launch prosecution for violation of provisions of this act and rules and bye-laws made thereof;
- (vi) issue licences to the functionaries operating in the market,
- (vii) prepare annual budget of the Market Committee;
- (viii) arrange for summoning the meeting of the Market Committee and maintenance of records of the proceeding 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;
- (x) report such acts of the Market Committee or members of the Market Committee including the Chairman and Vice-Chairman which are contrary

- to the Provisions of this Act and rules and bye laws framed thereof to the Director of Marketing;
- (xi) take such steps as deemed necessary for effective discharge of the functions and decisions of the Market Committee.

CHAPTER-X

STATE AGRICULTURAL MARKETING BOARD CONSTITUTION, FUNCTIONS AND POWERS

Establishment of the State Agricultural Marketing Board.

51. The State Government may, for co-ordinating the activities of Market Committees and for exercising such other powers and performing such functions as are conferred or entrusted by or under this Act establish and constitute a State Agricultural Marketing Board.

Incorporation of Board.

52. The Board shall be a body corporate having perpetual succession and a 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 with the sanction of the State Government and the Contract and to do all other things necessary for the purpose for which it is established.

Composition of the State Agricultural Marketing Board.

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

Members of the Board.

54. The members of the Board shall all appointed by the State Government from amongst the following categories of persons, namely;
- (1) Seven members to be nominated from amongst the members of the Market Committees in the State of which five shall be Chairman of the

Market Committees representing agriculturists and two shall be traders.

- (2) Agriculture Production Commissioner. *Ex-Officio Member*
- (3) Secretary, Agriculture Department or in-charge Agricultural Marketing or his nominee not below the rank of Deputy Secretary. *Ex-Officio Member*
- (4) Director of Agriculture and/or Director of Horticulture where such posts exists separately. *Ex-Officio Member*
- (5) Agricultural Marketing Advisor to the Government of India or his nominee. *Ex-Officio Member*
- (6) Representatives of the National Bank for Agricultural and Rural Development (NABARD) not below the rank of Deputy General Manager. *Ex-Officio Member*
- (7) Registrar of Co-operative Societies. *Ex-Officio Member*
- (8) Chief Town Planner or the chief Officer concerned with town planning. *Ex-Officio Member*
- (9) Officer from Revenue Department or any authority of the State Government concerned with land acquisition for the markets. *Ex-Officio Member*

- (10) Director or Commissioner Food and Civil Supplies of the State Government. *Ex-Officio Member*
- (11) Representative of Food Corporation of India posted at the State level. *Ex-Officio Member*
- (12) Director of Agricultural Marketing or the officer incharge Agricultural Marketing in the State who may be Secretary of the Board.

Chief Executive officer of the Board.

55. The Member Secretary or the Secretary of the Board shall function as the Chief Executive Officer of the Board.

Term of office of the non-official members of the Board.

56. The term of office of the non-official members of the Board shall be for three years. The members shall hold the office at the pleasure of the State Government.

Term of Office of the Member.

57. The tenure of office of the member of the Board shall come to an end as soon as he ceases to hold the office by virtue of which he was nominated. In the event of supersession of the Market Committee from where the member/members have been nominated on the Board, the Government shall appoint person/persons as member of the Board representing interest of the suspended committee.

Filling of casual vacancy.

58. In the event of death or resignation or disqualification or removal of any member of the Board or any vacancy occurring otherwise 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 by the State

Government. The person so nominated shall hold such office for un-expired term of his predecessor.

Resignation of Members.

59. A member of the Board may resign from 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.

Superintendence of the Board.

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

Allowances to Members of the Board.

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

Functions and Powers of the Board.

62. The Board shall, subject to the Provision of this 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) co-ordination of the working of the Market Committees and other affairs thereof including programme undertaken by such Market Commit-

tees for the development of markets and market areas.

- (ii) undertaken the State level planning of the development of agricultural produce markets;
- (iii) administer the State Marketing Development Fund;
- (iv) giving 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 of the Board by the State Government.

Other functions of the Board.

63. Without prejudice to the generality of the foregoing provision, such functions of the board shall include-

- (i) to approve proposal for selection of the new sites by the Market Committees for establishment of principal or sub-market yard;
- (ii) to approve proposal for constructing infrastructural facilities in the market area;
- (iii) to supervise and guide the Market Committees in the preparation of plans and estimates of construction programme undertaken by the Market Committee.
- (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 regulation of the Board;
- (vi) to publish annually at the close of the year, its progress reports, balance sheet, and Statement of assets and liabilities and send copies thereof to

each member of the Board and the State Government;

- (vii) to make necessary arrangements for propaganda and publicity on matters related to regulated to marketing of agricultural produce;
- (viii) to provide facilities for the training of officers and staff of the Market Committees;
- (ix) to prepare and adopt budget for the ensuing year;
- (x) to grant subventions or loan to Market Committee for the purpose of this Act on such terms and conditions as the board may determine;
- (xi) arrange or organise seminars/workshops/exhibitions etc. on subjects related to agricultural marketing;
- (xii) to do such other things as may be general interest to Market Committees or considered necessary for the efficient functioning of the Board.

Regulation

64. (1) (i) 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) the 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) the powers and duties of the officers and other employee of the Board,
 - (c) the salaries and allowances and other conditions of service of officers and other employees

of the Board and officers of the market committees.

- (d) the management of the property of the Board;
- (e) the execution of contracts and assurances of property on behalf of the Board :
- (f) the maintenance of accounts and the preparation of the balance sheet by the Board :
- (g) the procedure for carrying out the functions of the Boards under this Act;
- (h) any other matter for which provision is to be or may be made in regulation.

Marketing Development Fund.

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

Payment incurred by the Board.

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

Contribution towards the Board.

67. 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, subject to minimum of forty percent, to meet the expenses of establishment of the Board and expenses incurred in execution of the functions assigned to the Board under this Act.

Borrowing by issue of bonds or stocks

68. The board may from time to time with the previous sanction of the State Government and subject to provisions of this Act and to such conditions as the State Government may by general or special order determine borrow any sum required for the purpose of this Act.

Utilisation of Market Development Fund.

69. The Marketing Development Fund shall be utilised by the Board for discharge of functions entrusted to the Board under this Act. without prejudice to the generality of this provision, the Market Development Fund may be utilised for the following purposes namely :

- (1) payment of administrative expenditure of the Board :
- (2) payment of travelling and other allowances to the Chairman and Members of the Board;
- (3) payment of legal expenses incurred by the Board :
- (4) granting aid to financially weak market committee in the form of loan or grant for development purposes;
- (5) propaganda and publicity on matters relating to marketing of agricultural produce;
- (6) training of the officers and staff of the Market Committees and Board;
- (7) imparting education in marketing of agricultural produce.)
- (8) organising and or arranging workshops, seminars, exhibitions etc. on development of marketing;
- (9) construction of infrastructural facilities in the market area including construction of link and approach roads; culvert, bridges etc.
- (10) general improvement of the regulation of marketing in the State;
- (11) providing technical assistance to the Market Committee;
- (12) 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.

Audit of Account of the Board.

70. (1) The accounts of the Board shall be subject to audit under the State Local Fund Audit Act or

any other relevant Act and for the purpose of the said Act, the Board shall be deemed to be a local authority whose accounts have been declared by the State Government to be subject to audit under provisions of the said Act.

- (2) The Board may make arrangement of internal audit of its accounts, as it may deem fit.

Delegation of Powers.

71. (1) Subject to the provisions of this of this Act, the Board may by general or special order, delegate to the Member Secretary or Sub-Committee appointed by it or any officer of the Board such of the powers and duties under the Act, as it may deem fit.
- (2) Chairman or Secretary of the Board may delegate his power under this Act to any officer of the Board.

Supervision and control of the Chairman/Chief Executive.

72. (1) Chairman of the Board shall preside over the meeting.
- (2) Subject to the superintendence of the Board, general control and direction over all the officers and staff of the Board shall be vested with Chief Executive.

Function and Powers of the Chief Executive.

73. The Chief Executive Officer of the Board shall:—
 - (i) exercise supervision and control over officers and staff of the board in matters of executive administration concerning accounts and records and disposal of all questions relating to the service of the employees as per procedure prescribed;
 - (ii) appoint officers and staff of the Marketing Board as per direction and procedure prescribed by the Board;

- (iii) incur expenditure from the Marketing Development Fund on the sanctioned items of work;
- (iv) in case of emergency, direct the execution or of stoppage of any work and of any act which requires sanction the Board;
- (v) Prepare Annual Budget of the Board;
- (vi) arrange for internal audit of the Board;
- (vii) arrange for the meetings of the Board and maintain records of the proceedings of the meetings of the Board as per procedure prescribed;
- (viii) take such steps as deemed necessary for execution of the decision of the Board;
- (ix) inspect the construction work undertaken by the Market Committees either from their own funds or loans and or grants provided by Board or any other agencies and take corrective measures;
- (x) report such acts either of the Market Committees or of the board which are contrary to the provisions laid down under this Act or rules and bye-laws made thereof to the Government;
- (xi) take such steps as deemed necessary for effective discharge of the functions of the Board;

Conduct of Business of the Board.

74. (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) the provisions of Chapter IV 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, Member-Secretary and all other order and other instructions issued by the Board shall be authenticated by the signature of the Chairman, Member-Secretary or

such other officer of the Board as may be authorised in this behalf by regulations.

- (4) The Board shall conduct the business in a manner prescribed under the rules.

Appointment of officers and staff of the Board.

75. (1) The Board shall, with the previous approval of the State Government, create posts and appoint such other officers and staff as it considers necessary for the efficient discharge of its duties and functions under this Act.

- (2) The terms and conditions of service of officers and staff shall be such as the Board may, from time to time, determine with the approval of the State Government.
- (3) The Board may, with previous approval of the State Government or the Central Government as the case may be, appoint the Central or State Government servant as officer or staff of the Board or of a Market Committee on such terms and conditions as it thinks fit.
- (4) Notwithstanding anything contained in any other provision of this Act, the Board may constitute cadre officers and other staff common to all Committees as it may deem fit,
- (5) Every person who was holding a post comprised in a cadre referred to in sub-section (4) in any Market Committee (including a Government servant serving on deputation) shall on and from the date of constitution of the cadre (hereinafter in this section referred to as the said date) become a member of the cadre and shall hold his office or service there in on the same tenure at the same remuneration and upon the terms and conditions and with the same rights and privileges as the pension, gratuity and other matters as he would

have held the same on the said date but for the constitutions of the cadre and shall continue to do so until his employment as a member of a cadre is terminated or until remuneration or other terms and conditions of service are revised or altered by the Board under or in pursuance of any law or in accordance with any provision which for the time being govern his service :

Provided that nothing contained in section shall apply to any such person who, by notice in writing given to the State Government may within such time as the State Government may by general or special order specify, intimate him intention of not becoming a member of the said cadre.

Power and Functions of the Directorate of Marketing.

76. (1) Subject to the provisions of this Act, the Director of Marketing 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.

(2) In particular and without prejudice to the generality of the provisions of the Section 76, the functions of the Director of Marketing may include :

- (i) Supervision of the Market Committees for effective execution of provisions of the Act relating to transactions of agricultural commodities taking place on the market yard.
- (ii) Launch prosecution for contravening provisions to the Act the rules made thereof.
- (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 formulated thereunder :

- (v) Conduct audit of accounts of the Market Committee.
- (vi) Grading and standardization of agricultural produce.
- (vii) Approval of the Budget of Market Committee.
- (viii) Accord sanction to the creation of posts of officers and staff of Market Committees.
- (ix) Appointment and transfer of the members of the State Agricultural Marketing Service and act as the cadre controlling authority for the personnel of the State Agricultural Marketing Services.
- (x) Take steps for timely and proper conduct of the election of the Market Committees, and the Chairman and Vice-Chairman of the Market Committees.
- (xi) Acceptance of resignation of the Chairman of the Market Committees.
- (xii) Prefer an appeal from any person aggrieved by the order of the Market Committees.
- (xiii) Approval of the resolution passed by the Market Committees.
- (xiv) Removal of Chairman/Vice-Chairman or member/members of the Market Committees.
- (xv) Inspect or cause to be inspected accounts and office of Market Committees.

CHAPTER-XI

PENALTY

Penalty for Contravention of Act. Rules and Bye-laws.

77. Any person who contravenes any provision of this Act, or of any rules or bye-laws or order issued there under 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 9 and 37 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 conviction.

Recovery of Market dues.

78. Whenever any person is convicted of any offences punishable under this Act, the Magistrate shall in addition to any fine 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 payover to the Market Committee the cost of the prosecution.

Cognizance of offences.

79. (1) No court inferior to that of Magistrate of the Second Class shall try any offence under this Act or any rules or bye- laws made thereunder.

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

CHAPTER-XII CONTROL

Inspection of Marketing and enquiry into affairs of Market Committee.

80. (1) The Director may :—

(a) inspect or cause to be inspected the account and Offices of Market Committee:

- (b) hold enquiry into the affairs of the market committee;
 - (c) call for from a Market Committee return, Statement, accounts or report 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;
 - (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 about to be done or is being 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 88, the Chairman, Vice-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 on proceeding of Market Committee as the Director or the Officer authorised as the case may be, may require.
- (3) An Officer investigating the affairs of the Market Committee under Sub-section (1) or the State Govt., examining the proceeding of any Market Committee under Section 26 shall have the power to summon and enforce the attendance of officers and 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 the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1973.

- (4) Where the Director 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 of a Market Committee are likely to be mis-appropriated or misapplied, the Director may issue order directing a person duly authorised by him in writing to seize and to take possession of such books and records, funds and property of the Market Committee and officer or officers of the Market Committee responsible for the custody of such books and records, funds and property shall give delivery thereof to the person so authorised.

Powers to remove a member of the committee.

81. (1) The Director may remove a member, Chairman or Vice-Chairman of the committee where he is of the opinion that he :-
 - (a) has been guilty of misconduct or gross negligence of duty as member, Chairman or Vice-Chairman;
 - (b) ceases to hold the qualification necessary for his being a member, Chairman or Vice-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.

Supersession of Committee.

82. If in the opinion of the State Government a Committee is incompetent to perform or persistently makes default

in performing the duties imposed on it by or under this Act. or abuses its power the State Government may by notification supersede the Committee, after affording it an opportunity.

Emergency Powers

83. If at any time the State Government is satisfied that a situation has arisen in which the purpose of this Act, cannot be carried out in accordance with the provision thereof the State Government may by notification;

- (i) Declare that the function of Committee shall to such an extent as may be specified in the notification by exercised by the Board, person or persons as it may direct, or
- (ii) Assume to itself all or any of the powers vested in or exercisable by a Committee and notification may contain such incidental and consequential provisions as may appear to the State Government to be necessary or desirable for giving effect to the object of the notifications.

Consequences of Supersession.

84. (a) Upon publication of the notification superseding a committee under Section 82, the following consequences shall ensue :-

- (i) all the members including the Chairman, Vice-Chairman of the committee shall, as from the date of publication of the notification be deemed to have vacated their offices;
- (ii) The State Government shall direct that steps be taken for constitution of a new committee under Section (14) and till such time as a new Committee under Section (14) is constituted as aforesaid, the Director shall make such arrangement for carrying out the functions of the committee as it may deem fit, for the

period not exceeding one year and may, for that purpose, direct that all the functions, powers and duties of the Committee and its Chairman, under this Act shall be performed, exercised and discharged by such person or authority as the Director may appoint in this behalf and such person or authority shall be deemed to be the Committee or Chairman, as the case may be.

Power of Director to direct making or amending Bye-laws

85. (1) If it appears to the Director 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-law or such amendment of the bye-law within the time specified, the Director 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 there under and there upon such bye-law or amendment shall be binding on the market Committee.
- (3) An appeal shall lie to the State Government from any order of the Director under Sub-section (2) within thirty days from the date of such order and decision of State Government on such appeal shall be final.

Powers of write off loss shortages and irrevocable fees.

86. Where it is found that any amount due to Market Committee is irrecoverable or should be remitted or whenever any loss of a Committee's money or store or other property occurs through the fraud or negligence of any person or for any other cause and the property or money is found to be irrecoverable, the Market Committee may order to write off as lost, irrecovered or remitted as the case may be.

Provided that, if in any case the amount is in excess of one hundred rupees such order shall not take effect without the prior approval of the Director.

Power to call for proceedings of Market Committee and pass order thereon

87. The Director may, at any time, call for to examine the proceeding of any Market Committee for the Purpose of satisfying itself as to legality of propriety of any decision taken or order passed by the Market Committee. If in any case it appears to the Director that any decision or order or proceeding so called should be modified, annulled or reversed, the Director may pass such order thereon as he thinks fit :

Provided that no such order shall be passed by the Director without giving a reasonable opportunity of being heard to the Market Committee or to the parties affected thereby.

The Director to Prohibit execution or further execution of resolution passed or order made by the committee.

88. (1) The Director may, of its 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 he 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 yards 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 is continuing in force, it shall be the duty of the Committee, if so required by the Director, take to any 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.

Liability of Chairman, Vice-Chairman, members and employees for loss, waste or misappropriation

89. (1) If in the course of enquiry or inspection under Section 82 or in the course of audit under this Act, it is found that any person who is or was entrusted with the management of a Market Committee or any deceased, past or present Chairman, Vice-Chairman, Member, Officer-in-charge of Market Committee, Secretary or any other officer or employee of 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 the provisions of this Act or rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligences or misconduct or has misappropriated or fraudulently retained any money or

other property belonging to the Market Committee, the Director may on his own motion or on the application of the market Committee, enquire himself or direct any officer subordinate to him duly authorised by him by an order in writing in this behalf no enquiry into the conduct of such person within two years of the date or reports of audit, enquiry, or inspection, as the case may be,

- (2) If in an enquiry made under sub-section (1) the Director is satisfied that there are good grounds for an order under 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 State to repay or restore the money or property and any party thereof, with interest with such rate or to pay contribution and costs or compensation to such extent as the Director may consider just and equitable :

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

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

- (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 Director and the order of the Director 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 manner as if it were a decree of such court, or any sum directed to be paid by such order may be recovered as an arrear of land revenue.
- (6) If the Director is satisfied on affidavit, enquiry or otherwise that any person with intention to delay or obstruct the enforcement of any order that may be passed against him under the Section :
- (a) is about to dispose of the whole or any part of his property : or
 - (b) 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 attachment 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;

Powers of State Government to amend schedule.

90. The State Government may, by notification add to or amend or delete any of the items of agricultural produce specified in the schedule and thereupon the schedule shall be deemed to be 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.

Recovery of Sums due to Market Committee.

91. Any sum due to a Market Committee or the Board on account of any charge, costs, expenses, fees, rent and any other account under the provisions of this Act or any rule or byelaws made thereunder shall be

recoverable in the same manner as an arrear of land revenue.

Duty of Police Officer.

92. It shall be the duty of every police officer to communicate as soon as may be, to the Market Committee any information which he receives regarding any attempt to commit or the commission of any offence against this Act or any rule or bye-law made thereunder and to assist the Secretary or any officer or servant of the Market Committee demanding his aid in the exercise of his lawful authority.

Chairman, Vice-Chairman, Members, Officers and servants etc. of market Committee and Board to be public servants.

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

Delegation of powers.

94. (1) The State Government may delegate to Board or any 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 100.

(2) The Director may delegate to any officer of the State Government not below the rank of Asstt. Director or Marketing Officer any of the Powers conferred on him by or under this Act.

Bar to Civil Suit.

95. No suit, prosecution or legal proceedings in respect of anything in good faith done or intended to be done under this act or rules or bye-laws made thereunder, shall lie against the Director or any 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 direction of the Director, such officer, or such Committee.

Bar of suit in absence of notice.

96. Notwithstanding anything contained in any section of any Act, no suit shall be instituted against the Board or a market committee, until the expiration of two months next after notice in writing stating the cause 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 accrual of the alleged cause or action.

Duty of local authorities to give information and assistance.

97. It shall be 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 authorised in that behalf relating to import and export of notified agricultural produce into and out of the area of local authority free of any charges. It shall also be the duty of every locality 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 power and discharging his duties under this act.

Protection to persons acting in good faith.

98. No suit prosecution or other legal proceeding shall be instituted against any person for anything done or intended to be done in good faith under this Act or the rules, regulations or the bye-laws.

Act not be invalidated by informality, vacancy etc.

99. Not act done or proceeding taken under this Act by the Board, by a market committee or sub-committee

appointed by the Board shall be invalidated merely on the ground of :-

- (a) Any vacancy or defect in the constitution of Board or sub-committee; or
- (b) any defect or irregularity in the appointment of a person acting as a member thereof; or
- (c) any defect or irregularity in such act or proceeding not affecting the substance.

CHAPTER – XIII **RULES AND BYE-LAWS**

Power to Make rules.

100(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 clause (29) of Section 2.
- (iii) (a) Qualifications which the representatives of agriculturists shall possess under section 14 (1) (i);
- (b) qualifications which the representatives of traders shall possess under section 14 (1) (ii).
- (c) authority which shall conduct election, determination of constituencies, preparation and maintenance of list of voters, disqualifications for being chosen as, or for being, a member, the right to vote; the payment of deposit and its forfeiture, the election offences and all matter ancillary thereto under Section 14 (13);

- (iv) The powers to be exercised and the duties to be performed by market committee and its Chairman and Vice-Chairman;
- (v) (a) the procedure and quorum at a meeting of market committee; and
(b) the form in which accounts of purchases and processing of agricultural produce are to be maintained;
- (vi) the management of markets, the procedure for recovery of market fees, fine for evasion of market fees and manner for assessment of market fees in default of furnishing returns;
- (vii) classification of market functionaries to grant of licences, regulations of licences under this Act, the persons required to take out licence, the forms in which and terms and conditions subject to which such licence shall be issued or renew;
- (viii) the provisions for the persons by whom 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;
- (ix) 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 :
- (x) the periodical inspection of all weights and measures and the weighing and measuring instruments in use in a market yard :
- (xi) the Trade allowance which may be made or received by any person in any transaction in the notified agricultural produce in a market yard :

- (xii) facilities for 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;
- (xiii) the provisions of accommodation for storing any agricultural produce brought into the market;
- (xiv) the preparation of plans and estimates for work proposed to be constructed partly or wholly at the expense of the market committee and the grant of sanction to such plans and estimates;
- (xv) the form 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;
- (xvi) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a market committee;
- (xvii) the time during which and the manner in which a trader or broker or commission agent shall furnish such returns to a market committee as may be required by it;
- (xviii) the regulation of advances, if any given to agriculturists by brokers or commission agents or traders;
- (xix) the grading and standardisation of the agricultural produce;
- (xx) the keeping of records of arrivals and prices of agricultural produce;

- (xxi) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in a market;
- (xxii) the recovery and disposal of fees leviable by or under this Act;
- (xxiii) compounding of offences and fixing compensation thereunder under this Act or rules or by laws made thereunder;
- (xxiv) manner of constitution of State Agricultural Marketing Services;
- (xxv) recruitment, qualification, appointment, promotion, scale of pay, leave allowance, acting allowance, loans, pension, gratuity, annuity, compassionate fund dismissal, removal, conduct departmental punishment, appeals and other service conditions of the members of the State Agricultural Marketing Service;
- (xxvi) limit of expenditure which may be incurred in reception of distinguished guests;
- (xxvii) limits of honorarium to Chairman, travelling, allowances to members and sitting fees payable to members for attending the meetings;
- (xxviii) manner of investment of the surplus in the market committee fund;
- (xxix) procedure for framing of bye-laws, their amendments or conciliation and for their previous and final publication;
- (xxx) classification of market committees on the basis of an annual income for all or any of the purposes of this Act;
- (xxxi) term of the office of the Chairman, Vice-Chairman and members of the Board;
- (xxxii) the powers to be exercised by the Chairman and Vice-Chairman, and the Chief Executive of the Board;

- (xxxiii) all matters required to be prescribed by rules under this Act;
- (xxxiv) mode of service of notice under the Act;
- (xxxv) the guidance of market committee;
- (3) In making any rule, 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 section shall be laid as soon as may be after it is made before the Nagaland Legislative Assembly while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in so far as it has effect before such modification or annulment, and shall be without prejudice to the validity of anything previously done under this rule.

Power to make bye-laws.

10. (1) Subject to the provisions of this Act and the rules made thereunder, a market committee may in respect of a market 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;
 - (iii) delegation of powers, duties and functions to the officers and servants, appointment pay, punishment, pensions, gratuities, leave, leave allowances, contributions by them to any provi-

- dent fund which may be established for the benefit of such officers and servants and other conditions of services;
- (iv) the delegation of powers duties and functions of the sub- committee if any;
 - (v) 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 effectively, implementing provisions of this Act and the rules made in the market area.
- (2) No bye-laws under sub-section (1) shall take effect until it has been confirmed by the Director.
- (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 further fine which may extend to ten rupees for everyday after first during which the breach is proved to have been persisted in.

SCHEDULE

ITEM	ENGLISH	HINDI
1. Cereals	1. Paddy	Dhan
	2. Rice	Chawal
2. Pulses	1. Pigeon pea	Arhar
	2. Lentil	Massur
	3. Cow pea	Lobbia & RajMah
	4. Pulses split	Dal Dali
	5. Gram	Channa
3. Oilseeds	1. Mustard	Sarson
	2. Indian Rape	Toria
	3. Groundnut shelled and unshelled	Muna phali
	4. Sesamum	Til
4. Vegetables oils	All Vegetables Oils	Sab Khane ke Tel
5. Fruit	1. Mango	Aam
	2. Banana	Kela
	3. Lichies	Lichi
	4. Sweet orange	Mosambi
	5. Apple	Saib
	6. Orange	Santola
	7. Peach	Aru
	8. Lemon	Neemboo
	9. Plum	Alucha
	10. Pears	Naspati
	11. Guava	Amrud
6. Vegetables	1. Potato	Alu
	2. Onion	Pias Khushak
	3. Onion Green	Piaz hara
	4. Brinjal	Baingan
	5. Bottle gourd	Ghia/Lau
	6. Lady's finger	Bhindi

	7. Red gourd	Halwa kadu	
	8. Tomato	Tamatar	
	9. Cauliflower	Phulgobi	
	10. Cabbage	Banda gobi	
	11. Knol khol	Gandh gobi	
	12. Green peas	Matar hari	
	13. French bean	Paras bean	
	14. Cow peas	Fahras bean	
	15. Leaves of Mustard & spanich etc.	Sag	
	16. Carrot	Gajar	
	17. Raddish	Muli	
	18. Turnip	Salgam	
	19. Arum	Arbi	
	20. Bitter gourd	Karela	
	21. Asb gourd	Patha	
	22. Cucumber	Kira	
7. Fibre	1. Jute/Sanhemp	Patua	
8. Animal Husbandary Product	1. Poultry	Murgi	
	2. Egg	Anda	
	3. Cattle	Gai	
	4. Sheep	Pharta	
	5. Goat	Bakri	
	6. Wool	Woon	
	7. Butter	Makhan	
	8. Ghee	Ghee	
	9. Milk	Dudh	
	10. Hinds & Skins	Khal	
		Processed & cured	
		11. Goat meat and Mutton	Bakri or Bhed ka gosht
		12. Fish	Machhli
	13. Bristles	Sur ka bal	

9. Condiments spices	1. Ginger	Addrak/Atoa
	2. Garlic Dry	Lashun
	3. Chilies dry & Green	Mircha
	4. Turmeric	Haldi
	5. Opium	Dhania Khushk
10. Narcotics	1. Tobacco	Tambakoo
	2. Opium	Kani
11. Miscellaneous	1. Sugarcane	Ganna
	2. Gur and Shakker	Gur or Shakker
	3. Molasses	Khandsari
	4. Oil cakes	Khali
	5. Edible Mush- room guchi	Panaphsa
	6. Bamboo	Bans
	7. Bromstick	Charu