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GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT - LAW DEPARTMENT
Jammu, the 19th November, 1997

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 14th November, 1997 and is hereby published for general information :-

THE JAMMU AND KASHMIR STATE AGRICULTURAL
PRODUCE MARKETING (REGULATION) ACT, 1997

(Act No. XXXVI of 1997)

[14th November, 1997]

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

Be it enacted by the Jammu and Kashmir State Legislature in the Forty-eighth Year of the Republic of India as follows :-

CHAPTER I

Preliminary

1. *Short title, extent and commencement* .- (1) This Act may be called the Jammu and Kashmir State Agricultural Produce Marketing (Regulation) Act, 1997.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. *Definitions*.- In this Act, unless the context otherwise requires,-

(1) "A Grader-cum-Packer" means a person who is engaged in sorting, grading and packing any of the produce as notified in person ;

(2) "A Preharvest Contractor" means a person engaged in purchase/ deal of any Agricultural commodity on preharvest contract terms from the producer and is engaged in sale/purchase or export of such commodities as notified in person or through his agent ;

(3) "Agricultural Produce" means any thing produced from land in the course of Agricultural or Horticulture and includes forest produce or any produce of the like nature either processed or unprocessed and declared by the Government by notification to be agriculture produce for the purposes of this Act ;

(4) "Agriculturist" means a persons who ordinarily by his own labour or by the labour of any member of his family or who by 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 a trader, commission agent, processor or broker, or a partner in a trading* firm or industrial concern in or in relation to agricultural produce.

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

(5) "Board" means the State Agricultural Marketing Board, established under section 45 of this Act ;

(6) "Broker" means an agent who in consideration of a commission merely negotiates and brings about a contract for the purchase or sale of notified agricultural produce on behalf of his principal but does not receive, deliver, transport, pay for the sale/purchase of or collect the payment for the sale of the notified agricultural produce ;

(7) "Buyer-(Purchase)" means a person, a firm, a company or co-operative society or Government Agency, public undertaking agency or Corporation, Commission Agent, who himself or on behalf of any persons or agent buys or agrees to buy agricultural produce in the market area as notified under this Act ;

(8) "Bye-laws" means the bye-laws made under rules framed under this Act ;

(9) "Collector" means the Collector of the District and includes an Additional Collector ;

(10) "Commission Agent" or "Arthi" means a person who, in the ordinary course of business, makes or offers to make a purchase or sale of agricultural produce, on behalf of the seller or purchaser of agricultural produce within or outside the market area or keeps it in his custody and controls it during the process or of its sale or purchase and collects payment thereof for a commission or Arthi ;

(11) "Director" means the person appointed by the Government by notification, as Director of Agricultural Marketing and includes any officer or officers empowered by the Government by notification, to exercise or perform such of the powers or functions of the Director under the provisions of this Act or the rules or the bye-law made thereunder as may be specified in such notification ;

(12) "Government" means the Government of the State of Jammu and Kashmir ;

(13) "Grower" means a person who is engaged in raising/ producing any commodity of Agricultural produce and brings it for sale and is engaged in sale/purchase or export of such commodities as notified in person or through his agent ;

(14) "Hamal" means a labourer, hamal or coolie engaged for Dara making, loading, unloading, filling, stitching, emptying or carrying any agricultural produce in the market area ;

(15) "Licence" means a licence granted under this Act ;

(16) "Licence" means a person or association, firm, company, public sector undertaking or society holding a licence issued under this Act ;

(17) "Local Authority" means, for the purpose of representation on the market committee in relation to an area within the local limits of any Municipal Area, the Municipal Corporation, the Municipal Council, the Cantonment Board, the Sanitary Board, the Town Area or Notified Area or Panchayat constituted under the law in force in the State ;

(18) "Market Area" means area notified under section 4 of this Act ;

(19) "Market Charges" include charges on account or in respect of commission, brokerage, weighing, measuring, grading and paking, Hamali (Loading unloading and carrying), cleaning, drying, serving, stretching, stacking, hiring gunny bags, stamping, bagging, storing warehousing, grading, surveying, transporting and processing ;

(20) "Market Committee" means the Agricultural Produce Market Committee established under this Act ;

(21) "Market Functionary" includes dealer, broker, commission agent, buyer, hamal, grower, purchaser, gradener packers, processor, stockist, trader and such other person as may be declared under the rules or bye-laws to be market functionary ;

(22) "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 Governmnet may by a notification, declare to be a market proper ;

(23) "Marketing" means buying and selling of agricultural produce and includes grading, processing, storage, transport and any other functions associated with the buying and selling ;

(24) "Market yard" in relation to a market area means a specified place and includes any enclosure, building or locality declared as such in any market area by the State Government or the Director by notification ;

(25) "Notification" means the notification published in the Government Gazette ;

(26) "Notified Agricultural Produce" means any agricultural produce notified under section 4 of this Act ;

(27) "Prescribed" means prescribed by rules made under this Act ;

(28) "Processing" means any one or more of a series of treatments relating to crushing, decorticating, polishing, curing or any other manual, mechanical, chemical or physical treatment to which raw agricultural

product is subjected to ;

(29) "Processor" means a person who processes any notified agricultural produce on his own accord or on payment of a charge ;

(30) "Regulation" means regulation made by the Board or Market Committee, in accordance with the provisions of this Act ;

(31) Retail "Sale" in relation to a notified agricultural produce means a sale not exceeding such quantity as the market committee may by bye-law, determine to be a retail sale in respect thereof ;

(32) "Rules" means rules made under this Act ;

(33) "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 ;

(34) "Trade allowance" means anything realised in cash or kind by the purchaser from seller in any transaction relating to agricultural produce, either by deduction from the price agreed upon or otherwise ;

(35) "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.

CHAPTER II

Establishment of Markets

3. *Notification of intention of regulating marketing of notified agricultural produce in special area.*— (1) The Government or the Director may by notification, and in such other manner as may be prescribed, declare its intention of regulating the marketing of such agricultural produce and in 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 Government or the Director within a period of not less than forty-five days to be specified in

the notification, shall be considered by the Government or the Director.

4. *Declaration of market area and requisition of specified agricultural produce therein.*— After the 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 Government or the Director may, by another notification declare the area specified in the notification issued under section 3 or any 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.

5. *Alteration of market area and items of regulated agricultural produce.*—(1) Subject to the provisions specified in sections 3 and 4 the Government or the Director may, at any time by notification exclude from any market area any area or include therein an additional area or may declare that the regulation of the marketing of any agricultural produce in any area shall cease or that the 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 Government Gazette prior notice of not less than 45 days as the Government or the Director may consider reasonable of the 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 such exclusion or inclusion shall notwithstanding anything contained in this Act, continue to be the market committee for the said market area until such market committee is reconstituted under this Act.

(3) When any area ceases to be a market area under sub-section (1) the market committee constituted shall cease to exist, and the property and rights vested in any such market committee shall subject to all charges and liabilities affecting the same vest in the Government.

(4) Where any such area is included in two or more other market area the Government or the Director shall by order direct that such property,

rights charges and liabilities shall vest in the market committee of such areas in such manner and in such proportions as may be specified in such order.

6. *Amalgamation, division of Market Committees.*— Where the Government or the Director 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 Government or the Director may after consulting the market committees concerned provide 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, interests and authorities and such liabilities, duties and obligation (including provision in respect of contracts, assets, employees, proceedings and such incidental, consequential and supplementary matters as may be necessary to give effect to such amalgamation) as may be specified, in the notification.

7. *Division of market area into two or more separate market area.*—

(1) Subject to the procedure specified in sections 3 and 4, the Government or the Director 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 or more separate market areas, the following consequences shall ensure :

- (i) the market committee constituted for the area under this Act shall be deemed to have been dissolved and the Government or the Director shall constitute a separate market committee under section 13 for each of separate market areas subject to such condition as be prescribed;
- (ii) the term of office of the newly constituted shall be the same as is applicable to the first Market Committee under sub-section (1) of section 13;
- (iii) the assets, rights and liabilities of the dissolved Market Committee shall be distributed by the Government or the Director between the new Market Committees in accordance with such rules as may be prescribed ;

- (iv) any appointment, notification, notice, fee, order, scheme, licence, permission, bye-laws 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 Committees shall be deemed to have been made issued or imposed by such Market Committee concerned unless and until it is superceded.

(3) If any difficulties arise in giving effect to the provisions of this section, the Government or the Director may by order so published in the official gazette as the occasion may require, do anything which appears to be necessary to remove the difficulty.

8. *Market yards, sub-market yards and market proper.*— (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 Government or the Director shall as may be possible after the issue of notification under section 4, by notification.

- (i) 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

- (ii) declare in relation to such market yard or sub-market yard, any specified area in the market area to be a market proper.

9. *Control of marketing of notified agricultural produce.*— On the establishment of a market area 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 the sale or purchase of such agricultural produce,-

- (i) the producer where of 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, has the case may be, from a trader for retail sale ;

(c) Agricultural produce which is purchased by an authorised fair price shop dealer from the Food Corporation of India, the State Commodity Trading Corporation or any other agency or institution authorised by the Government for distribution through the public distribution system ;

(d) The transfer of such agricultural produce to a Co-operative Society, warehouse or a Bank for the purpose of securing advance therefrom.

CHAPTER III

Constitution of Market Committees**10. Establishment of Market Committee and its incorporation.-**

(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 name as the Government or the Director may by notification specify. It shall have perpetual succession and a common seal and may sue or be sued in its corporate name and shall subject to such restriction 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 established :

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

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

11. Vesting of property of local authority in Market Committee.-

(1) The Market Committee may require a local authority to transfer to it any land or building belonging to the local authority which is situated within the market yard and which immediately before the establishment of the market was being used by the local authority within one month of the receipt of the requisition, transfer the land and/or building, as the case may be, to the market committee on such terms as may be agreed upon between them.

(2) Where within a period of thirty days from the date of receipt of requisition by the local authority under sub-section (1) no agreement is reached between the local authority and the Market Committee under the said sub-section, the land or building require 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 Collector under sub-section(5).

Provided that no compensation shall be payable to a local authority in respect of any land or building which has 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 Collector may, within thirteen days from the date of such order, appeal to the 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 Collector shall take possession of the land or building and cause it to be delivered to the Market Committee.

(4) The order of the Government and subject to that order the order of the Collector under sub-section (2) shall be final and binding on both the parties.

(5) The Collector 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 or the present value of any building erected or other work executed on the land by the local authority.

(6) The compensation fixed under sub-section (5) may, at the option of the Market Committee, be paid in lump sum or in such manner as the Collector may fix and where the compensation is paid in instalments, it shall carry interest at the rate of six per cent per annum which shall be payable along with the instalments.

12. Acquisition of land for Market Committee.— (1) When any land within the market area is required for the purposes of this act, and the Board

or the Market Committee is unable to acquire it by agreement, the Government may at the request of the Board or the Market Committee, as the case may be proceed to acquire such land under the provisions of the State Land Acquisition Act of Svt. 1990 (X of 1990) and on the payment of the compensation awarded under that Act by the Board or Market Committee and of any other charges incurred by the Government in connection with the acquisition of 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 which reasons as may be approved by the Government.

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

13. Appointment of officer incharge of Committee incharge pending constitution of first Market Committee.— (1) When a Market Committee is established for the first time under this Act, the Government or the Director shall by an order appoint :—

(a) a person to be the Chief Executive for a period not exceeding two years in the first instance.

(b) a Committee consisting of not less than eleven members and not more than fifteen members to be the Committee incharge. The members of the Market Committee may be appointed from among the persons representing the same interest and in the same proportion as specified in section 14 of this Act for a period not exceeding two years. The Chief Executive of the Committee incharge 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 Government or the Director may at any time during the period aforesaid appoint Committee-incharge in place of Chief Executive, in place of Committee incharge as the case may be the Committee incharge or the Chief Executive 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 Chief Executive, 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 Government :

Provided further that if the Market Committee is constituted before the expiry of the period aforesaid, the Chief Executive shall cease to hold office or the Committee-incharge shall cease to function on the date appointed for the first general meeting of the newly constituted Market Committee.

(2) In the event of vacancy occurring on account of death, resignation or otherwise of the members of the Market Committee Incharge, the Vacancy shall be filled in by fresh appointment by the Government or the Director.

(3) Any Chief Executive or any or all persons appointed by the Committee-incharge under clause (b) of sub-section (1) may at any time be removed by the Director who shall have power to appoint another person or persons, as the case may be in his or their places.

(4) Every person appointed as Chief Executive under sub-section (1) shall receive from the Market Committee fund for his service ; such pay and allowances as may be fixed by the Director and every members of the Committee-incharge shall be entitled to receive from the Market Committee fund allowance at such rates at which allowances are payable to members of the Market Committee.

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

- (i) At least five but not more than seven members of the fruit Association of the area where fruit market is located who in turn will be elected from amongst the members of the applications recognised by the Government or of which or of them should belong to Scheduled Caste or Scheduled Tribe in case their population is more than 8% the total population of the area where market is located ;

- (ii) One member shall be representative of the Fruit Growers Co-operative Marketing Society/Societies nominated by the Registrar of FGEM Society (Fruit Growers Cooperative Marketing Society) :

Provided that such representative shall be the President or Secretary or Administrator of the Co-operative Marketing Society ;

- (iii) One member to be nominated by the Government ;
- (iv) One member of the JKHMPC, to be nominated by the Managing Director ;
- (v) One member of Agro Industries Development Corporation to be nominated by the Managing Director Agros ;
- (vi) One member from I.G.Transport, Jammu and Kashmir Government ;
- (vii) The Government may appoint the remaining amongst the progressive orchardist to be members of the market committee.

(2) A member elected under clause (i) , (ii) , (iv) , and (v) of sub-section (1) shall cease to hold office as member if he ceases to be member of the electorate by which he was elected, or he ceases to be member of Agriculture Department as the case may be.

(3) The Government may make rules to provide for the election of the members of the Market Committee, the authority which shall conduct election, I determination of constituencies, the preparation and maintenance of the list of voters, disqualifications for being chosen as, and for being member, the right to vote, the payment of deposit and its forfeiture, election offences, the determination, of election disputes and all matters ancillary thereto.

(4) On the failure of the electorate mentioned in clauses (i) and (ii) of sub-section (1) to elect member or members referred to in the said clause after the election proceedings have been started in accordance with the provisions of this Act or the rules made thereunder, the Government shall

nominate on behalf of the electorate concerned a person or persons qualified to be member, as member or members, of the Market Committee.

(5) Members of the every Market Committee shall hold office for a period of five years from 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) A member of the Market Committee may resign from his office at any time by a letter in writing addressed to the Director and the office of such member shall become vacant on expiry of fifteen clear days from the date unless before the expiry of fifteen days he withdraws the resignation by another letter in writing addressed to the Director.

(8) In the event of the death, resignation or removal of 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 the 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.

15. *Chairman of Market Committee.*— (1) Every Market Committee shall have a Chairman. The Chairman shall be elected amongst members of the Market Committee other than the official members.

(2) After every election, the Market Committee shall elect the Chairman at its first general meeting which shall be convened by the Director within one month of the general election. The Chairman so elected shall hold office for the full term from the date on which they enter upon their respective offices.

(3) The Chairman shall, notwithstanding, the expiry of the term of office, continue to hold office until his successor enters upon his office.

(4) The meeting convened for the selection of the 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 the meeting, shall have the same powers 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 a 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 the Director if he is the presiding officer, shall decide the dispute himself and in any other case officer presiding shall refer the dispute to the Director for decision. The decision of the Director shall subject to an appeal to the Agricultural Production Commissioner be final and no suit or other proceedings shall lie in any court of law in respect of such decisions.

(7) (i) Where the Director/Board is satisfied that the books and record of a Market Committee are likely to be suppressed, tampered with or destroyed, or the funds and property of a Market Committee are likely to be misappropriated or misapplied, the Collector or the person authorised by him in this behalf 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-clause 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 likely to be kept and to seize them and hand over possession thereof to the Collector or the person authorised by him as the case may be.

16. *Resignation by Chairman and vacancy in their office.*— (1) A member holding office of Chairman may resign his office at any time in writing addressed to the Director 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 Director.

(2) Every Chairman shall vacate office if he ceases to be a member of the Market Committee.

(3) During the vacancy caused by death, resignation, removal or otherwise then notwithstanding anything contained in Act, such member of the Market Committee as the Director may appoint, shall exercise the powers and perform the functions of the Chairman till the Chairman is duly elected.

17. *No confidence motion against Chairman.*— (1) A motion of no confidence may be moved against the Chairman at a meeting specially convened for the purpose under sub-section (2) and if the motion is carried by a majority of not less than two-third 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 against whom such motion is passed shall cease to hold his office with effect from the date immediately next after the date on which such motion is passed.

(2) For the purpose of sub-section (1) a meeting of 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 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 shall have a right to speak and otherwise to take part in the proceeding 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 no notice of any subsequent motion expressing want of confidence in the same Chairman shall be made until the expiry of three months from the date of such meeting.

CHAPTER IV

**Conduct of Business and Powers and
Duties of Market Committee**

18. *Meeting etc. of the Market Committee.*— (1) Subject to the provisions of this act, the Market Committee shall conduct the business in accordance with the rules made for this 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 place in the market area as may be prescribed.

19. *Powers and duties of Market Committee.*— (1) Subject to the provisions of this Act, it shall be the duty of the Market Committee,—

- (i) to implement the provisions of the Director/Board or the Government may from time to time direct ;
 - (ii) to provide such facilities for marketing of agricultural produce therein as the Director/Board or the 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 for regulating marketing of agricultural produce in any place in the market area, and for purposes in connections with the matters aforesaid and for that purpose may exercise such powers and discharge such functions or may be provided by or under this Act ;
 - (iv) to work out transport required on daily/monthly basis for haulage of fruit out such State and provide for necessary arrangements of trucks for the purpose.
- (2) Without prejudice to the generality of the foregoing provisions a Market Committee may ;
- (i) maintain and manage the market yards and sub-market yards 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 submarket yards in the market area ;
- (iii) grant or refuse to grant licences to market functionaries and renew, suspend or cancel such licences, supervise the conduct of the market functionaries, and enforce conditions of bye-laws of the Market Committee ;
- (iv) regulate or supervise the auction of notified agricultural produce in accordance with the provisions/procedure laid down under the rules made under this Act, or bye-laws of the Market Committee ;
- (v) conduct or supervise the function of notified agricultural produce in accordance with the procedure laid down under the rules made under this Act, or bye-laws of the Market Committee ;
- (vi) regulate the making, carrying out and enforcement or cancellation of agreements of sales, weighment, delivery, payment and all other matters relating to the marketing of notified agricultural produce in the prescribed manner ;
- (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 marketing of notified agricultural produce and all matters ancillary there to in the prescribed manner ;
- (ix) arrange for collection of such agricultural produce in the market area in which all trade therein is to be carried out on exclusively by the Government by or under any law in force for that purpose or of such agricultural produce in the market area as the 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 standardisation of the notified agricultural produce ;
- (xii) take measure for the prevention of purchases and sales below the minimum support prices as fixed by the Government from time to time ;
- (xiii) levy, take, recover and receive rates, charges, fees and other sums of money to which the Market Committee is entitled ;
- (xiv) employ the necessary number of officers and servants for the efficient implementation of the provisions of the Act, the rules and the bye-laws as may be prescribed ;
- (xv) regulate the entry of persons and vehicular traffic into the the market yard and sub-market yard vesting in the Market Committee ;
- (xvi) prosecute persons for violating the provisions of this Act, the rules and the bye laws and compound such offences ;
- (xvii) acquire, 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 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 provisions of space for direct sale by a producer and assist a producer by preparing invoices and bills in his behalf when he sells his produce to a trader 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 prescribed manner ;
- (xxii) administer Market Committee fund referred to in section to in section 43 and maintain the account thereof in the prescribed manner ;
- (xxiii) inspect and verify sales, weights and measures in use in a market area and also the books of accounts and other documents maintained by the market functionaries in such manner as may be prescribed ;
- (xxiv) 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 ;
- (xxv) ensure payment in respect of transaction 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 along with other property of the person concerned ;
- (xxvi) make arrangement for weighmen and hamals for weighing and graders-cum-packers and transporting of goods in respect of transaction held on the market yard or sub-market yard as the case may be ;
- (xxvii) recover the charges in respect of weighmen and hamals and distribute the same to weighman and hamals if not paid by the purchaser or a seller as the case may be ;
- (xxviii) with the prior sanction of the Government or the Director of the Board undertake the constructions of roads in the market area to facilitate movement of agricultural produce to the market for benefit of producers, sellers and traders operating in the market area.

20. *Appointment of sub-committee and delegation of powers.*— The Market Committee may appoint one or more sub-committees consisting of one or more of its members for reporting or giving opinion any matter relevant to the Market Committee or it may subject to such restrictions and conditions as may be specified in the bye-laws, delegate to any such sub-committee such of its powers or duties it may think fit.

21. *Power to levy market fees.*— (1) The Market Committee shall levy and collect market fees in respect of agricultural produce brought into and brought or sold in the market area in a manner and at the 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.

22. *Power to order production of accounts and powers of entry inspection and seizure.*— (1) Any officer or servant of the Market Committee/Marketing Board empowered in this behalf, may for 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 to furnish any information relating to the stocks of such agricultural produce, or purchase, 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 of purchases, sales and deliveries 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 the bye-laws or that any person has purchased any notified agricultural produce in contravention of

any of the provision of this Act or the rules, or the 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 and shall retain the same only so long as may be necessary for examination thereof or for a prosecution.

(4) For purposes of sub-section (2) or sub-section (3) such officer or servant may enter or search any place of business, warehouse, office establishment, godown, vessel or vehicle where such officer or servant has reason to believe that such person keeps or for the time being has kept any accounts, register or documents of his business, or stocks notified agricultural produce relating to this business.

(5) The provisions of section 102 (1) to (3) of the Code of Criminal Procedure Samvat 1989, shall, so far as may be, apply to a search under sub-section (4).

23. *Power to stop vehicles etc.*— (1) At any time when so required by any officer or servant of a Market Committee. Marketing Board or Director empowered in this behalf, the driver or any other person incharge of any vehicle, vessel or other conveyance, as the case may be shall keep it stationery as long as may be reasonably necessary and allow such officer or servant to examine the contents in the vehicles, 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 notified agricultural produce carried in such vehicle, vessel or other conveyance.

(2) The officer or servant of the Market Committee Board or the Government empowered under sub-section (1) shall have power to seize 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 forth with 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 523, 424 and 525 of the Code of Criminal Procedure Samvat 1989 shall so far, as may be apply in relation to the notified agricultural produce seized as aforesaid as they apply in relation to Property seized by a Police Officer.

24. *Power to borrow.*— (1) A Market Committee may, with the

previous sanction of the Director Board raise money or issue debentures required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.

(2) The Market Committee may, for the purpose of meeting the initial expenditure on lands building, staff and equipments required for establishing the market, obtain a loan from the Government of Marketing Board or other financial institution.

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

25. *Compounding of offences.*— (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 on 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 rule of the bye-laws in addition to the fee or other amount as 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 such 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.

26. *Power to write off recoverable fee etc.*— A Market Committee may write-off any fee or other amount whatsoever due to it whether under a contract or otherwise or any amount payable in connection therewith if in its opinion such fee or amount is irrecoverable.

27. *Powers to remove encroachment on market yard.*— Any officer or servant of the Market Committee or the Board empowered by the Government in this 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 said encroachment and shall be recovered in the same manner as arrears of land revenue.

28. *Use of weighing instruments, weights and measures, their inspection and seizure.*— (1) Only such weighing instruments as satisfy the requirements of and such Weights and Measures as are prescribed by the Jammu and Kashmir State Weights and Measures (Enforcement) Act, 1978, and the rules made thereunder shall be used for weighing or measuring agricultural produce in a notified market area :

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

(2) Every Committee shall keep in the market yard at least one weighing instrument of the capacity of one quintal of two sets of weights and in places where measures are used two sets of measures, verified and stamped in accordance with the provisions of the Jammu and Kashmir Weights and Measures (Enforcement) Act, 1978 and the rules framed thereunder. The Committee shall cause such weights and measures to be tested and verified once in the course of each calendar year through the agency appointed and in accordance with the requirements of the said Act and Rules.

(3) The Market Committee shall allow any person to check free of charge any weight or measure in his possession against the weights and measure maintained under this section.

(4) Weighing instruments, weights and measures kept by a 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 other 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, or any other persons authorised in this behalf by the Director, Chairman/Secretary of the Board of 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 licence under this Act and every such licensee in possession of any such weighing instrument, weight or measure 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 measure under sub-section (5) shall while so acting, have all the powers of an Inspector, weights and measures appointed under the Jammu and Kashmir State Weights and Measures (Enforcement) Act, 1978.

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

Provided that in case 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 an agreement on behalf of the Market Committee where the amount of value of such contract or agreement does not exceed rupees five thousand regarding matters in respect of which he is generally or 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 clauses (a) and (b) a contract or agreement on behalf of the Market Committee shall be executed

by the Chairman, the Secretary and one other member of the market committee who shall have been generally or specially authorized by a resolution of the Committee to do so.

(3) Every contract entered in to 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) Notwithstanding anything contained in the Registration Act, Samvat 1977 it shall not be necessary for the Chairman or any member or officer or Secretary of market committee to appear in person or by agent at any registration office in any proceeding connected with the registration office in any instrument executed by him in his official capacity or to sign as provided in section 50 of that Act.

(6) 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.

(7) Where a contract or agreement is entered in to 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 in to such contract or agreement.

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

CHAPTER V

Budget

31. *Preparation and sanction of budget.*— (1) Every Market Committee in-charge 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/Board for sanction before the prescribed date every year. The Director/Board 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/Board 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, therefor unless it can be met by reappropriation which may be obtained from the Director/Board, provided that in case of reappropriation from minor heads under one major head no sanction for reappropriation shall be required.

(3) A Market Committee may at any time during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and sanctioned in the same manner as if it were in original Budget.

(4) The Market Committee shall not take upon or pass order for execution of any construction work estimated to cost more than rupees twenty thousand without prior permission of the Director/Board even if there is a provision therefor in the sanctioned budget.

(5) The Director/Board, 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 Government or Marketing Board or any other agency authorised by the Government in this behalf.

CHAPTER VI

Staff of Market Committee

32. *Constitution of State Agricultural Marketing Service.* (1) The 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 Government may make rules in respect of recruitment, qualification, appointment, promotion, scale of pay, leave, leave allowance, acting allowance, loans, pension, gratuity, amenity, compassionate fund, dismissal, removal, conduct, departmental punishment, appeals and other service conditions of the members of the State Agricultural marketing Service.

(3) The salary, allowances, gratuity and other payment required to be made to the members of the State Agricultural Marketing Service, in accordance with the condition of their service, shall be a charge on the Market Committee.

(4) The Director/Board may transfer any member of the State Agricultural Marketing Service from one Market Committee to another Market Committee.

(33) *Secretary of Market Committee.*— (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 Committee and shall exercise and perform the following powers and duties in addition to such other duties as may be specified in this Act, the rules or bye-laws framed thereunder, namely :-

- (i) Convene the meeting of the Market Committee and of the Sub-Committees, if any and maintain minutes of the proceedings thereof;
- (ii) attend the meeting of the Market Committee and of every Sub-Committee and take part in the discussion but shall not move any resolution or vote at any such meeting ;
- (iii) take action to give effect to the resolution of the committee and of the Sub-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) furnish to the Market Committee such returns, statements 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 ; (b) regarding overtrading by traders ; (c) regarding contravention of the Act, rules, bye-laws of the standing orders by any person ; (d) regarding the suspension or cancellation of licence by the chairman or the Director ; (e) regarding administration of the Market Committee and the regulation of the marketing ;
- (vi) produce before the committee such documents, books register and the like as may be necessary for the transaction of the business of the Committee or the Sub-Committee, and also whenever called upon by the market Committee to do so ;
- (vii) exercise supervision and control over the acts of all the officers 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 of the Board, as soon as possible, in respect of fraud, embezzlement theft or loss of Market Committee funds or property ;
- (xii) prefer complaints' in respect of prosecutions to be launched on behalf of the Market Committee and conduct proceedings, civil or criminal, on behalf of the Market Committee.

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

34. *Other Officer Belonging to State Agriculture Marketing Service.*— There shall be such other officers to every market committee who shall be member of the State Agricultural Marketing Service, as the Government may determine and they shall be appointed by the Director/Board provided that an officer may be appointed for more than one Market Committee.

35. *Appointment of staff by the Market Committee.*— 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/Board.

CHAPTER VII

Regulation of Trading

36. *Regulation of person operating in the market area.*— No person shall, in respect of any notified agricultural produce operate in the market area as trader, commission agent, broker, weighman, hammad, grader-cum-packer, surveyor, warehouseman, owner or occupier of processing or pressing factories or such other market functionary except in accordance with the condition of a licence granted under the provisions of this Act and the rules and bye-laws made thereunder.

37. *Power to grant licenses.*— (1) Every person specified in section 36 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 by bye-laws.

(2) Every such application shall be accompanied by such fee as the Director/Board 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 therefor, 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 the provisions of this Act, and the rules and bye-laws made thereunder.

(5) The Market Committee may, by a resolution, passed in that behalf and with prior approval of the Director or the Board direct that no commission agent, or broker or both shall act in any transaction between the producer-seller and trade purchaser, on amount towards commission or dalali from the sale proceed payable to the producer seller nor shall the 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.

38. *Power to cancel or suspend licence.*— (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 licence has been obtained through wilful mis-representation or fraud ;
- (b) if the holder of the licence or any servant or any one acting on his behalf with his express 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 licenses commits any act or abstains from carrying out his normal business in the market area with the intention or 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 ;
- (f) if the holder is convicted of any offence under this Act.

(2) (a) Subject to the provision 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 contained 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 licence granted or renewed by the Market Committee :

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

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

39. *Appeal.*— (1) Any person aggrieved by an order of the Secretary, Chairman of the Market Committee or the authorized person of the Board or the Director under sub-section (1), (2) or (3) of section 38 as the case may be, may prefer an appeal ;

- (a) to the Director or the officer authorized by the board where such order is passed by the Market Committee or Chairman or Secretary ;
- (b) to the Government where order is passed by the Director/ authorized person of the Board.

(2) An appeal under sub-section (1) shall be made within a period

of thirty days from the date of passing of such order.

(3) The appellate authority may, if it considers necessary so to do, 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 the order in appeal under this section, be final and shall not be called in question in any court of law.

40. *Prohibition of trade allowances other than those prescribed under this Act* .- (1) 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 product and no civil court shall, in any suit or proceedings 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 addition 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.

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

42. *Conditions of buying and selling* .- (1) Any person who have 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 and one copy of the agreement shall be kept by the buyer, one copy shall be supplied to the seller and the remaining copy shall be kept in the record of the Market Committee.

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

CHAPTER VIII

Market Committee Fund

43. *Market Committee Fund* .- (1) Save as provide in sub-section (2), all moneys received by a Market Committee shall be and in to a fund to be called "The Market Committee Fund" all expenditure incurred by the Market Committee under or for the purpose of this Act shall be defrayed out of the said fund. Any surplus remaining with the Market Committee after such expenditure has been met shall be invested in such manner as may be prescribed.

(2) Any money received by the Market Committee by way of arbitration fee or as security for costs in arbitration proceeding relating to disputes or any money received by the Committee by way of security deposits, contribution to provident fund or for payment in respect of a notified agricultural produce or charges payable to weighman, hamal and other functionaries and such other moneys received by the Market Committee as may be provided in the rules or bye-laws shall not form part of Market Committee fund and shall be kept in such manner as may be prescribed.

(3) Save as otherwise provided in this Act, the amount to the Credit of Market Committee Fund and all other moneys received by the Market Committee shall be kept in a Co-orpeative Bank or in Post office Saving Bank or, with the approval of the Director/Board, in any Bank.

44. *Application of Market Committee Fund*.- Subject to the provisions of section 43, the Market Committee Fund may be expended for the following purposes, 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 building 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 charges including payment and contribution towards provident fund, pension and gratuity of the officers and servants employed by a Market Committee ;
- (vi) loans and advances to the employees of the committee ;
- (vii) the payment of interest of the loans that may be raised for the purpose of the market and provisions of sinking fund in respect of such loans ;
- (viii) expenses incurred in auditing the accounts of the Market Committee ;
- (ix) payment of honorarium and travelling allowance to Chairman and other members of the Market Committee and sitting fees payable to members for attending the meeting;
- (x) contribution to State Agriculture Marketing Board as prescribed and Consolidated Fund of the State to the extent required for salary of the employees of the Board ;
- (xi) contribution to any scheme for Development of Agriculture Marketing including transport and scientification ;
- (xii) to provide facilities like grading services and communication to agriculturists in the market area ;
- (xiii) to provide for development of Agricultural produce in the market area ;
- (xiv) payment of expenses on Elections under this Act ;
- (xv) incurring of all expenses for research, extension and training in marketing of agricultural produce ;
- (xvi) prevention, in conjunction with other agencies of the State or Central and other of distress sale of agricultural produce;
- (xvii) 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 ;

- (xviii) 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/Board.

CHAPTER IX

State Agricultural Marketing Board Constitution Functions and powers

45. *Establishment of the State Agricultural Marketing Board.*— The Government may be co-ordinating the activities of Market Committee 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.

46. *In corporation of Board.*— 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 such property and to contract and to do all other things necessary for the purpose for which it is established.

47. *Composition of the State Agricultural Marketing Board.*— The Board shall consist of a Chairman and such other members as may be appointed by the Government.

48. *Members of the Board.*— The members of the Board shall be appointed by the 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 out of which two shall be traders ;
2. Agriculture Production Commissioner ;
3. Director Horticulture, Ex-Officio member

4. Agricultural Marketing Advisor to the Government of India or his nominees Ex-Officio member ;
5. Representative of the National Bank for Agricultural and Rural Development (NABARD) not below the rank of Deputy General Manager, Ex-Officio member ;
6. Registrar of Co-operative Societies, Ex-Officio member ;
7. Chief Town Planner, Ex-Officio member ;
8. Officer from Revenue Department or any authority of the Government concerned with land acquisition for the market Ex-Officio member ;
9. Director Horticulture (P&M), Member-Secretary.

49. *Chief Executive Officer of the Board.*— The Member-Secretary/ Marketing Director or the Secretary of the Board shall function as the Chief Executive Officer of the Board.

50. *Term of Office of the non-official member of the Board.*— The term of office of the non-official members of the Board shall be three years.

51. *Term of office of the member.*— (1) The tenure of office of a 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.

(2) In the event of supersession of the Marketing Committee from where the member/members have been nominated on the Board the Government shall appoint person/persons as members of the Board representing interest of the superseded Committee.

52. *Filling of casual vacancy.*— 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 been occurred in such office and such vacancy shall be filled, as soon as may be by nomination by the Government. The person so nominated shall hold such office for the unexpired term of his predecessor.

53. *Resignation of members.*— A member of the Board may resign from membership by his resignation to the 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.

54. *Superintendence of the Board.*— The 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.

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

56. *Functions and powers of the Board.*— The Board shall, subject to the provisions of this Act, perform the following functions and shall power to do such things as may be necessary or expedient for carrying out its functions, namely :-

- (i) Co-ordination of the working of the Market Committee and other affairs there of including programmes under taken by such Market Committees for the development of market and market areas ;
- (ii) undertake 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 function specifically entrusted to it by this act ;

- (vi) such other functions of like nature as may be entrusted to the Board by the Government.

57. *Other functions of the Board.*— Without prejudice to the generality of the foregoing provisions, such functions of the Board shall include :-

- (i) to approve proposals for selection of new sites by the Market Committee 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 Committee 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 report, balance sheet and statement of assets and liabilities and send copies thereof to each member of the Board and the Government ;
- (vii) to make necessary arrangements for propagandas and publicity on matter related to regulated marketing of an 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 ensuring year ;
- (x) to grant subventions or loan to Market Committee for the purposes of this Act on such terms and conditions as the Board may determine ;

- (xi) arrange and organise seminars, workshops, exhibitions etc. on subject related to agricultural marketing ;
- (xii) to do such other things as may be of general interest to Market Committees or considered necessary for the efficient functioning of the board ;
- (xiii) to draw strategy for making available transport for the haulage of fruit to the traders and sellers for outside market/mandies.

58. *Regulation.*- (1) The Board may with the previous approval of the Government, make regulations, not inconsistent with this Act and the rules made thereunder for the administration and smooth functioning of the Board ;

(2) In particular and without prejudice to the generality of the forgoing powers, such regulations may provide for all or any of the following matters, namely:-

- (a) the summoning and holding of meeting 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 there at ;
- (b) the powers and duties of the officers and other employees of the Board ;
- (c) the salaries and allowances and other conditions of service of officers and other employees of the Board and of 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 balance sheet by the Board ;
- (g) the procedure for carrying out the functions of the Board under this Act ;

- (h) any other matter for which provision is to be or may be made in regulations.

59. *Marketing Development Fund.*- All moneys received by or on behalf of the Board shall be credited to a fund called marketing Development Fund.

60. *Payments incurred by the Board.*- All payments incurred by the Board shall be defrayed out of the said fund.

61. *Contribution towards the Board.*- Every Market Committee shall out of its funds, pay to the Board as contribution such percentage of its income derived from licence fees and market fees as may be prescribed by the Government by notification subject to a maximum of forty per cent to meet the expenses of establishment of the Board and expenses incurred in execution of the function assigned to the Board under this Act.

62. *Borrowing by issue of bonds or stocks.*-The Board may from time to time with the previous sanction of the Government and subject to provisions of this Act and to such conditions as the Government may, by general or special order determine, any sum required for the purposes of this Act.

63. *Utilization of Market Development Fund.*- The Market Development fund shall be utilized by the Board for discharge of functions entrusted to the Board under this Act. Without prejudice to the generality of the provisions, the Market Development Fund may be utilized for the following purpose, namely:-

- (i) payment of administrative expenditure of the Board ;
- (ii) payment of travelling and other allowances to the chairman and members of the Board ;
- (iii) payment of legal expenses incurred by the Board ;
- (iv) granting aid to financially weak Market Committees in the form of loan or grant for development purposes ;
- (v) propaganda and publicity on matters relating to marketing of agricultural produce ;

- (vi) training of the officers and staff of the Market Committee and Board ;
- (vii) imparting education in marketing of agricultural produce;
- (viii) organising and/or arranging workshops, seminars, exhibitions etc. on development of marketing ;
- (ix) construction of infrastructural facilities in the market area including construction of link and approach roads, culverts, bridges etc. ;
- (x) general improvement of the regulation of marketing ;
- (xi) providing technical assistance to the Market Committee;
- (xii) for any other purposes deemed necessary for execution of the functions assigned to the Board under this Act or as directed by the Government.

64. *Audit of the Accounts of the Board.*- (1) The accounts of the Board shall be examined and audited annually by the Secretary to Government, Agriculture Production department or any Chartered Accountant to be nominated by the Government.

(2) The annual report of the audit under sub-section (1) shall be published in the Government Gazette.

65. *Designation of powers.*-(1) Subject to the provisions of this Act, this Board may by general special order, delegate to the Managing Director/Member-Secretary or Sub-Committee appointed by it or to any officer of the Board such of the powers and duties under this Act, as it may deem fit.

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

66. *Supervision and Control of the Chairman, Chief Executive.*-(1) The Chairman of the Board shall preside over the meetings.

(2) Subject to superintendence of the Board, the general control and direction over all the officers and staff of the Board shall be vested with the Chief Executive Officer.

67. *Function and power of the Chief Executive Officer.*- The 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 stoppage of any work and doing of any act which requires the sanction of 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 Committee either from their own funds or loans and or grants provided by the 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, rules or bye-laws to the Government ;
- (xi) take such steps as deemed necessary for effective discharge of the functions of the Board.

68. *Conduct of business of the Board.*- (1) The Board shall meet for the transaction of its business at least once in every three months at such place and at such time as the Chairman may determine.

(2) Save as otherwise provided in sub-section(1), 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 orders and other instruments 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 regulation ;

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

69. *Appointment of officers and staff of the Board.*- (1) The Board shall, with the previous approval of the Government create 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 other staff shall be such as the Board may, from time to time determine with the approval of the Government.

(3) The Board may with previous approval of the Government appoint a Government servant as an officer or staff of the Board or of a Market Committee on such terms and condition as it thinks fit.

(4) Notwithstanding anything contained in any other provision of this Act, the Board may constitute cadre of 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 therein by the same tenure, as the same remuneration, 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 constitution of the cadre and shall continue to do so until his employment as member of a cadre is terminated or until his 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 governs his service :

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

70. *Power and functions of the Director of Marketing* .- (1) Subject to the provisions of this Act, the Director of Marketing may perform such functions other than those prescribed by the Board under this Act, which would enable proper execution of the provisions of this Act.

(2) In a particular and without prejudice to the generality of the provisions of sub-section (1) the functions of the Director of Marketing may include ;

- (i) supervision on the market committee for effective execution of provisions of this Act relating to transactions of agricultural commodities taking place on the market yard ;
- (ii) launch prosecution for contravening provisions of this Act and rules made thereunder ;
- (iii) suggest amendments to this 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 to accounts of the Market Committee ;
- (vi) grading and standardization of agricultural produce ;
- (vii) approval of the budget of the Market Committee ;

- (viii) accord sanction to the creation of the posts of officers and staff of the Market Committee ;
- (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 Service ;
- (x) take steps for timely and proper conduct of the election of the Market Committee and the Chairman of the market Committee ;
- (xi) acceptance of resignation of the Chairman of the Market Committee ;
- (xii) prefer an appeal from any person aggrieved by the order of the Market Committee ;
- (xiii) approval of the resolutions passed by the Market Committee ;
- (xiv) removal of Chairman or member/members of the Market Committee ;
- (xv) Inspect or cause to be inspected accounts and offices of the Market Committee.

CHAPTER X

Penalty

71. *Penalty for contravention of the Act, Rules and bye-laws.* - Any person who contravenes any provision of the Act, or of any rule or bye-laws or order issued thereunder shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both :

Provided that in the case of a continuing contravention of the provisions of section 9 and 27, 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.

72. *Recovery of market dues* .- Whenever any person is convicted

of any offence 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 pay to the Market Committee costs of the prosecution.

73. *Cognizance of offences.*- (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 this Act or any rule or any bye-laws made thereunder except on the complaint made by the collector of the Chairman or Secretary of the Market committee or of any person duly authorised by the Market Committee in this behalf.

CHAPTER XI

Control

74. *Inspections of Marketing and Inquiry into affairs of Market Committees.*- (1) The Director may :-

- (a) inspect or cause to be inspected the accounts and offices of Market Committees ;
- (b) hold enquiry into the affairs of a Market Committee ;
- (c) call for from a Market Committee return statement of accounts or reports which he may think fit to require such Committee to furnish ;
- (d) require a Market Committee to take into consideration,-
 - (i) any objection on the ground of illegality, inexpediency or impropriety which appears to him to exist to the doing of any thing 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 certain thing by such Committees ;

- (iii) direct that any thing which is about to be done or is being done should not be done, pending consideration of the reply, and any thing which should be done but is not being done should be done within such time as he may direct.

(2) When an affair of a Market Committee is investigated under this section or the proceeding of a Market Committee are examined by the Director under section 80, the Chairman, Secretary and all other officers and servants and members of such Committee shall furnish such information in their possession in regard to the affairs or proceeding of the Market Committee as the Director, or the officer authorised, as the case may be, may require.

(3) An officer investigating the affairs of a Market committee under sub-section (1) or the Government examining the proceeding of any Market Committee under this Act shall have the power to summon and enforce the attendance of officers or members of the Market Committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, Samvat 1977.

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

75. *Power to remove Member/Chairman of the Committee.*- (1) The Director may remove a member, Chairman of the Committee where it is of the opinion that he ,-

- (a) has been guilty of misconduct or gross negligence of duty as member-of Chairman ;
- (b) ceases to hold the qualifications necessary for his being a member or Chairman ;

(2) No order of removal under sub-section (1) shall be passed unless the person concerned has been given reasonable opportunity of submitting an explanation in respect of the allegations against him.

76. *Supersession of the Committees.*- Where the Director is of the opinion that a Committee has failed in the performance, or exceeded or abused the powers conferred on it by or under this Act, it may, by notification supersede the Committee :

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

77. *Consequences of supersession* .- Upon publications of the notification superseding a Committee under section 76, the following consequences shall ensure :-

- (i) all the members including the chairman of the Committee shall, as from the date of publication of the notification, be deemed to have vacated their offices ;
- (ii) the 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, 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.

78. *Powers of Director to direct making or amending bye-laws.*-

(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-laws 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-laws within such time as he may specify in such order.

(2) If the Market Committee fails to make such bye-laws or such amendment of the bye-laws within the time specified, the Director may, after giving the Market Committee a reasonable opportunity of being heard by an order make such bye-laws or such amendment of the bye-law and thereupon, subject to any order under sub-section (3) such bye-laws or such amendment of the bye-laws shall be deemed to have been made or amended by the Market Committee in accordance with the provisions of this Act or the rules made thereunder and these upon such bye-laws or amendment shall be binding on the Market Committee.

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

79. *Power of write off loss shortages and irrecoverable fee.*- (1) Wherein it is found that any amount due to a Market Committee irrecoverable or should be remitted or whenever any loss of a Committee is money or store or other property accrued through the fraud or negligence of any person for any other cause and the property or money is found to be irrecoverable, the Market Committee may order to write off as irrecoverable or remitted as the case may be :

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

80. *Powers to call for proceedings of Market Committee and pass order thereon.*- "The Director may, at any time, call for and examine the proceedings of any Market Committee for the purposes of satisfying itself as to the legality or propriety of any decision taken or order passed by the Market Committee. If in any case it appears to the Director that any decision of order or proceedings 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 to such Market Committee.

81. *Powers of the Director to prohibit execution or further execution of resolution passed or order made by the Committee.*- (1) The Director may, of its own motion or on report or complaints received, by

order prohibit the execution or further execution of resolution passed or order made by the Committee or its Chairman or any of its officers or servant, if it is of the opinion that such resolution or order is prejudicial to the public interest or is likely to hinder efficient running of business in any market area, principal market yard or sub-market yard or is against provisions of this Act or the rules or the rules or bye-laws made thereunder.

(2) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Committee, if so required by the Director to take any action which the Committee would have been entitled to take if the resolution or order had never been made or passed and which is necessary for preventing the Chairman or any of its officers or servants from doing or continuing to do anything under the resolution or order.

82. *Liability of Chairman, members and employees for loans, waste or misappropriation etc.*-(1) If in the course of enquiry or inspection under section 74 or in the course of audit under this Act, it is found that any person who is or was entrusted with the management of Market Committee or any deceased, past or present Chairman, member, officer-in-charge of Market Committee or an officer of the Government had made or directed by assenting or concurring or participating in any affirmative vote or proceeding related thereto, any payment or application of any money or other property belonging to, or under the control of such Committee to any purpose contrary to the provisions of this Act or rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property, belonging to the Market Committee, the Director 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 to enquire into the conduct of such person within two years from the date of report of audit enquiry or inspection, as the case may be.

(2) If 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, legal representatives who inherit his estate, to repay or restore the money or property and any part thereof, with interest and 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 a reasonable opportunity of being heard in the matter :

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

(3) Any person aggrieved by an order made under sub-section (2) may within 20 days from the date of communication of the order to him, appeal to the 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 same manner as if it were a decree of such court or 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 this section :-

- (a) is about to dispose of the whole of any part of his property;
- (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 be by a competent Civil Court

83. *Powers of Government to amend schedule* .-The Government may by notification add or amend or delete any of the items of agriculture 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 Government Gazette previous notice of not less than 15 days as the Government may consider reasonable of its intention to issue such notification.

84. *Recovery of sums due to market committee*.- The sum due to 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 bye-laws made thereunder shall be recoverable in the same manner as an arrear of land revenue.

85. *Duty of Police Officer*.- 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-laws 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.

86. *Chairman, members, officers and servants etc. of Market Committee/Board to be public servants*.- The Chairman, Member Secretary or other officers and servants of a Market Committee and the Chairman, members, officers and other servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Jammu and Kashmir State Ranbir Panel Code, Samvat 1989.

87. *Delegation of Powers*.- (1) The Government may delegate to the Board or any officer or the 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 93.

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

88. *Bar to Civil Suit*.- 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 Government or against any officer or servant of the Board or any Market Committee or against any person acting under and in accordance with the directions of the Director, such officer, or such committee.

89. *Bar of suit in absence of notice.*- Notwithstanding anything contained in any section of this Act, no suit shall be instituted against the Board or any Market Committee, until the expiration of two months next after notice in writing stating the 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 is instituted within six months from the date of the accrual of the alleged cause of action.

90. *Duty of local authorities to give information and assistance.*-

(1) It shall be the duty of every local authority to give all the necessary information in the possession of or under the control of its officers to the Market Committee or its officers authorized in that behalf, relating to the import and export of notified agricultural produce into and out of the area of the local authority, free of any charge.

(2) It shall also be the duty of every local authority and its officers and staff concerned with the collection of the octroi to give all the possible assistance to any officer of the Market Committee in exercising his powers and discharging his duties under this Act.

91. *Protection to person acting in good faith.*- No suit, prosecution or other legal proceeding shall lie 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 made thereunder.

92. *Act not to be invalidated by informality vacancy etc.*- No Act done or proceedings taken under this act by the board, by a Market Committee or a Sub -Committee appointed by the Board shall be invalidated merely on the ground of:-

- (a) any vacancy or defect in the constitution of Board or sub-Committees ; or

- (b) any defect or irregularity in the appointment of a person acting as a member thereof ; and
- (c) any defect or irregularity in such act or proceeding and affecting the substance.

CHAPTER XII

Rules and Bye-Laws

93. *Power to make rules* .- (1) The Government may, after previous notification, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for ;

- (i) the other manners of publication of notification under section 3 (1);
- (ii) the fixation of quantity of sale under clause (31) of section 2;
- (iii) the qualifications which the representatives of agriculturists shall possess under section 14 (1) (i);
- (iv) the qualifications which the representative of traders shall possess under section 14 (1)(ii);
- (v) the authority which shall conduct elections, 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 deposits and its forfeiture, the election disputes and all matters ancillary thereto under section (14)(3) ;
- (vi) the powers to be exercised and the duties to be performed by the Market Committee and its Chairman ;
- (vii) the procedure and quorum at meeting of Market Committee; and

- (viii) the form in which account of purchases and processing of agriculture produce to be maintained ;
- (ix) the management of market, the procedure for recovery of market fees, fine for evasion of market fees and manner for assessment of market fees in default of furnishing returns ;
- (x) the classification of market functionaries for grant of licences, regulation of licences under this Act, the persons required to take out license. The forms in which and terms and conditions subject to which such licences shall be issued or renewed ;
- (xi) the provisions for the persons by whom and the form 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 ;
- (xii) the kind and description of weights and measures and the weighing and measuring instruments in use in a market yard ;
- (xiii) the periodical inspection of all weight and measuring instruments in use in a market yard ;
- (xiv) the facilities for the settlement of any dispute between a buyer and seller of notification agricultural produce of their agents including disputes regarding the quality of weight of the articles, payment in respect of the price of goods sold and the allowances for wrapping, contained dirt of impurities or deductions for any cause by mediation, arbitration or otherwise ;
- (xv) the provision of accommodation for storing any agricultural produce brought into the market ;
- (xvi) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates ;

- (xvii) the form in which the account of a Market Committee shall be kept, the audit and application of such audit and the inspection of audit memoranda of the account and reply of such memoranda ;
- (xviii) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a Market Committee ;
- (xix) 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 ;
- (xx) the regulation of advances, if any given to agriculturists by broker of commission agents on traders ;
- (xxi) the grading and standardization of the agricultural produce;
- (xxii) the keeping of records of arrivals and prices of agricultural produce ;
- (xxiii) the manner in which auctions of agriculture produce shall be conduct and bids made and accepted in a market ;
- (xxiv) the recovery and disposal of fees leviable by or under this Act ;
- (xxv) compounding of offences and fixing compensation thereof under this Act, rules or bye-laws made thereunder ;
- (xxvi) manner of constitution of state Agricultural Marketing Service ;
- (xxvii) recruitment, qualification, appointment, promotion, scale of pay, leave, leave allowance, acting allowance, loans, pension, gratuity, compassionate fund, disposal, removal, conduct departmental punishment, appeals and other service conditions of the members of the state Agricultural Marketing Service ;
- (xxviii) limits of expenditure which may be incurred in reception of distinguished guests ;

- (xxix) limits of honorarium to Chairman, travelling allowances to members and sitting fees payable to members for attending the meetings ;
- (xxx) Manner of investment of the surplus in the Market Committee Fund ;
- (xxxii) procedure for framing of bye- laws, their amendments or cancellation and for their previous and final publication ;
- (xxxiii) classification of Market Committee on the basis of annual income for all or any of the purposes of this Act ;
- (xxxiv) term of the officer of the chairman and members of the board ;
- (xxxv) the powers to be exercised by the Chairman and the Chief executive of the Board ;
- (xxxvi) mode of service of notice under this Act ;
- (xxxvii) all matters required to be prescribed by rule under this Act;
- (xxxviii) generality for the guidance of Market Committee .

(3) In making any rule , the Government may direct that breach thereof shall be punished with fine which may extend to two hundred rupees .

(4) Every rule made under this Act , shall be laid on the table of the both Houses of the State legislature.

94. Power to make bye-laws.- (1) Subject to the provisions of this Act, and the rules made thereunder, 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 market ;

- (iii) delegation of powers, duties and functions to the officers and servants, appointment, pay, punishment, pensions, gratuities, leave allowances, contribution by them to any provident fund which may be established for the benefit of such officers and servants and other conditions of service ;
- (iv) the delegation of powers, duties and function to a Sub-Committee, if any ;
- (v) market functionaries who shall be required to take license;
- (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 affective implementation of the provisions of this Act and the rules made thereunder 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 every day after first day during which the breach is proved to have been persisted in.

(Sd.).....

Deputy Legal Remembrancer,
Law Department.