

Salient Features of the Model Act on Agricultural Marketing

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Background

Agricultural Markets in most parts of the Country are established and regulated under the State APMC Acts. The whole geographical area in the State is divided and declared as a market area wherein the markets are managed by the Market Committees constituted by the State Governments. Once a particular area is declared a market area and falls under the jurisdiction of a Market Committee, no person or agency is allowed freely to carry on wholesale marketing activities. The monopoly of Government regulated wholesale markets has prevented development of a competitive marketing system in the country, providing no help to farmers in direct marketing, organizing retailing, a smooth raw material supply to agro-processing industries and adoption of innovative marketing system and technologies.

An efficient agricultural marketing is essential for the development of the agriculture sector as it provides outlets and incentives for increased production, the marketing system contribute greatly to the commercialization of subsistence farmers. Worldwide Governments have recognized the importance of liberalized agriculture markets. Task Force on Agricultural Marketing Reforms set up by the Ministry has suggested promotion of new and competitive Agricultural Market in private and cooperative sectors to encourage direct marketing and contract farming programmes, facilitate industries and large trading companies to undertake procurement of agricultural commodities directly from the farmer's fields and to establish effective linkages between the farm production and retail chains. There is a necessity to integrate farm production with national and international markets to enable farmers to undertake market driven production plan and adoption of modern marketing practices.

If agricultural markets are to be developed in private and cooperative sectors and to be provided a level competitive environment vis-à-vis regulated markets, the existing framework of State APMC Acts will have to undergo a change. The State has to facilitate varying models of ownership of markets to accelerate investment in the area and enable private investment in owning, establishing and operating markets. Working of existing Government regulated markets also need to be professionalized by promoting public private partnership in their management. Appropriate legal framework is also required to promote direct marketing and contract farming arrangements as alternative marketing mechanism. Therefore, there is a need to formulate a new model law for agricultural market.

Salient Features

1.The Title of the Act is changed to highlight the objective of development of agricultural marketing in addition to its regulation under the Act. Accordingly, the Preamble of the Act is redrafted to provide for development of efficient marketing system, promotion of agri-processing and agricultural exports and to lay

down procedures and systems for putting in place an effective infrastructure for the marketing of agricultural produce. (Section-1)

2. Legal persons, growers and local authorities are permitted to apply for the establishment of new markets for agricultural produce in any area. Under the existing law, markets are setup at the initiative of State Governments alone. Consequently, in a market area, more than one market can be established by private persons, farmers and consumers. (Section-3)

3. There will be no compulsion on the growers to sell their produce through existing markets administered by the Agricultural Produce Market Committee (APMC). However, agriculturist who does not bring his produce to the market area for sale will not be eligible for election to the APMC. (Section-14)

4. Separate provision is made for notification of 'Special Markets' or 'Special Commodities Markets' in any market area for specified agricultural commodities to be operated in addition to existing markets. (Section-20)

5. The APMC have been made specifically responsible for:

ensuring complete transparency in pricing system and transactions taking place in market area;

providing market-led extension services to farmers;

ensuring payment for agricultural produce sold by farmers on the same day;

promoting agricultural processing including activities for value addition in agricultural produce; and

publicizing data on arrivals and rates of agricultural produce brought into the market area for sale.

Setup and promote public private partnership in the management of agricultural markets. (Section -26 & 27)

6. Provision made for the appointment of Chief Executive Officer of the Market Committee from among the professionals drawn from open market. (Section-36)

7. A new Chapter on 'Contract Farming' added to provide for compulsory registration of all contract farming sponsors, recording of contract farming agreements, resolution of disputes, if any, arising out of such agreement, exemption from levy of market fee on produce covered by contract farming agreements and to provide for indemnity to producers' title/ possession over his land from any claim arising out of the agreement. (Chapter-VII)

8. Model specification of contract farming agreements provided in the Addendum to the model law.

9. Provision made for direct sale of farm produce to contract farming sponsor from farmers' field without the necessity of routing it through notified markets. (Chapter-VII)

10. Provision made for imposition of single point levy of market fee on the sale of notified agricultural commodities in any market area and discretion provided to the State Government to fix graded levy of market fee on different types of sales. (Section-42)

11. Licensing of market functionaries is dispensed with and a time bound procedure for registration is laid down. Registration for market functionaries provided to operate in one or more than one market areas. (Section-44)

12. Commission agency in any transaction relating to notified agricultural produce involving an agriculturist is prohibited and there will be no deduction towards commission from the sale proceeds payable to agriculturist seller. (Section-44(6))

13. Provision made for the purchase of agricultural produce through private yards or directly from agriculturists in one or more than one market area. (Section-45)

14. Provision made for the establishment of consumers'/ farmers' market to facilitate direct sale of agricultural produce to consumers. (Section-46)

15. Provision made for resolving of disputes, if any, arising between private market/ consumer market and Market Committee. (Section-50)

16. State Governments conferred power to exempt any agricultural produce brought for sale in market area, from payment of market fee. (Section-56)

17. Market Committees permitted to use its funds among others to create facilities like grading, standardization and quality certification; to create infrastructure on its own or through public private partnership for post harvest handling of agricultural produce and development of modern marketing system. (Section-59)

18. For the Chairmanship of State Agricultural Marketing Board, two options provided namely Minister in-charge of Agricultural Marketing as ex-officio or alternatively to be elected by the Chairman/ members of Market Committees. (Section-63)

19. The State Agricultural Marketing Board made specifically responsible for:

(i) setting up of a separate marketing extension cell in the Board to provide market-led extension services to farmers;

(ii) promoting grading, standardization and quality certification of notified agricultural produce and for the purpose to set up a separate Agricultural Produce Marketing Standards Bureau.
(Section-73)

20. Funds of the State Agricultural Marketing Board permitted to be utilized for promoting either on its own or through public private partnership, for the following:

market survey, research, grading, standardization, quality certification, etc.;

Development of quality testing and communication infrastructure.

Development of media, cyber and long distance infrastructure relevant to marketing of agricultural and allied commodities. (Section-79)

MODEL ACT

The State Agricultural Produce Marketing

(Development & Regulation Act, 2003)

9th September 2003

PREFACE

Agricultural marketing is witnessing major changes world over, owing to liberalization of trade in agricultural commodities. To benefit farming community for the new global market access opportunities, the internal agricultural marketing system in the country needs to be integrated and strengthened. In this context, Government of India in the Ministry of Agriculture appointed an Expert Committee on 19th December 2000 followed by an Inter Ministerial Task Force to review the present system of agricultural marketing in the country and to recommend measures to make the system more efficient and competitive. The Committee and the Task Force in their Reports of June 2001 and May 2002 respectively, have suggested various reforms relating to agricultural marketing system as well as in policies and programs for development and strengthening of agricultural marketing in the country. The reports have noted that the situation of control over agricultural markets by the State has to be eased to facilitate greater participation of the private sector, particularly to engender massive investments required for the development of marketing infrastructure and supporting services.

The recommendations contained in these Reports were discussed at the National Conference of State Ministers organized by the Ministry of Agriculture, Govt. of India at Vigyan Bhavan, New Delhi on 27th September 2002 and later by a Standing Committee of State Ministers constituted for the purpose under the chairmanship of Sri Hukumdeo Narayan Yadav, Union Minister of State for Agriculture on 29th January 2003. In the Conference as well as the Standing Committee, State Governments expressed the view that reforms in the agricultural marketing sector were necessary to move away from a regime of controls to one of regulation and competition. In view of liberalization of trade and emergence of global markets, it was necessary to promote development of a competitive marketing infrastructure in the country and to bring about professionalism in the management of existing market yards and market fee structure. While promoting the alternative marketing structure, however, Government needs to put in place adequate safeguards to avoid any exploitation of farmers by the private trade and industries. For this, there was a need to formulate model legislation on agricultural marketing.

The Ministry of Agriculture, Government of India accordingly set up a committee under the chairmanship of Shri. K.M. Sahni, Additional Secretary, Department of Agriculture and Cooperation to formulate a model law on agricultural marketing in consultation with the States. Other members of the Committee are Shri Jamini Sharma, Principal Secretary, Govt. of Madhya Pradesh, Shri. Shivajirao Deshmukh, Secretary (Cooperation & Marketing) , Govt. of Maharashtra, Shri. S. Bhalerao, Principal Secretary (Cooperation and Marketing) Govt. of Andhra Pradesh, Shri. V.Ramnath and Shri. A.K. Goel , Director General, National Institute of Agricultural Marketing, Jaipur and Shri. P.K. Agarwal, Joint Secretary (Marketing) as Member Secretary of the Committee. The present Model Legislation has been drafted by the Committee after holding discussions with the State officials at Bhopal on 3 – 4th May, 2003, at Pune on 22-23rd May 2003, at Shillong on 31st May 2003 and at Srinagar on 7th June, 2003. The draft legislation was thereafter discussed with the State Governments at the National Institute of Agricultural Marketing, Jaipur on 11th and 12th June 2003 and finalized. The participating States included representatives from the State of Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Madhya Pradesh, Punjab, Rajasthan and Uttar Pradesh. The draft model legislation was fully discussed by the Committee at Pune on 8th and 9th September 2003 and finalized.

The draft model legislation titled the State Agricultural Produce Marketing (Development and Regulation) Act, 2003, provides for establishment of Private Markets/ yards, Direct Purchase Centres, Consumer/Farmers Markets for direct sale and promotion of Public Private Partnership in the management and development of agricultural markets in the country. It also provides for separate constitution for Special Markets for commodities like Onions, Fruits, Vegetables, Flowers etc. A separate chapter has been included in the legislation to regulate and promote contract-farming arrangements in the country. It provides for prohibition of commission agency in any transaction of agricultural commodities with the producers. It redefines the role of present Agricultural Produce Market Committee to promote alternative marketing system, contract farming, direct marketing and farmers/consumers markets. It also redefines the role of State Agricultural Marketing Boards to promote standardization, grading, quality certification, market led extension and training of farmers and market functionaries in marketing related areas. Provision has also been made in the Act for constitution of State Agricultural Produce Marketing Standards Bureau for promotion of Grading, Standardization and Quality Certification of Agricultural Produce. This would facilitate pledge financing, E-trading, direct purchasing, export, forward/future trading and introduction of negotiable warehousing receipt system in respect of agricultural commodities.

The Committee would like to place on record the painstaking efforts made by Dr. R.M. Kharche, Managing Director, Maharashtra State Agricultural Marketing Board (MSAMB), Shri. Manohar Dubey, Deputy Secretary , Academy of Administration, Govt. of Madhya Pradesh, Bhopal, Shri. Shridhar Bangal, General Manager, MSAMB, Smt. Swati Tambhale, Law Officer, MSAMB, Shri. G.H. Dhankar, Deputy Agricultural Marketing Adviser and Shri. Lallan Rai, Assistant Agricultural Marketing Adviser from the Directorate of Marketing & Inspection (DMI) in drafting the Model Legislation. The Committee would also like to place on record the legal assistance provided by Shri. G.S. Shelke, Advocate & Solicitor, Mumbai in drafting model agreement for contract farming.

The Committee hopes that the model legislation will enable nationwide integration of agricultural markets, facilitate emergence of competitive agricultural markets in private and cooperative sectors, create environment conducive to massive investments in marketing related infrastructure and lead to modernization and strengthening of existing markets.

(K.M. Sahni)

Chairman

New Delhi

Dated 9th September 2003.

Shri. Jamini Sharma,

Principal Secretary

Govt. of Madhya Pradesh

Shri Shivajirao Deshmukh,

Secretary

Shri. A.K. Goel,

National Institute of Agricultural Marketing,

Jaipur

Shri P.K. Agarwal,

Joint Secretary & Agricultural Marketing
Adviser

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| Cooperation & Marketing, Government of Maharashtra Shri S. Bhalerao, Principal Secretary, Cooperation & Marketing, Govt. of Andhra Pradesh | Govt. of India Shri K.M.Sahni, Additional Secretary, Department of Agriculture & Cooperation Govt. of India |
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S. Bhalerao, Shri. K. M. Sahni,
Principal Secretary, Additional Secretary,
Cooperation & Marketing, Department of Agriculture
Govt. of Andhra Pradesh & Cooperation, Govt of India.

THE MODEL ACT

THE STATE AGRICULTURAL PRODUCE MARKETING (DEVELOPMENT & REGULATION) ACT, 2003

An Act to provide for improved regulation in marketing of agricultural produce, development of efficient marketing system, promotion of agri-processing and agricultural export and the establishment and proper administration of markets for agricultural produce in the State of _____ and whereas, it is expedient to put in place an effective infrastructure for marketing of agricultural produce and lay down procedures and systems thereto,

Be it enacted by the _____ State Legislature in the fifty third year of the Republic of India as follows :-

CHAPTER - I

Preliminary

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| Short Title Extent and commencement | 1. (1) This Act may be called "The _____ State Agricultural Produce Marketing (Development and Regulation) Act, 2003 (2) It extends to the whole of _____ (State) (3) It shall come into force on such date as the State Government may, by notification, appoint. |
| Definition | 2. In this Act, unless the context otherwise requires Definition (1) "Agricultural Produce" means all produce and commodities, whether processed or unprocessed, of agriculture, horticulture, apiculture, sericulture, livestock and products of livestock, fleeces (raw wool) and skins of animals, forest produce etc. as are specified in the schedule or declared by the Government by notification from time to time and also includes a mixture of two or more than two such products. (2) " Agriculturist " means a person who is a resident of the notified area of the market and who is engaged in production of agricultural produce by himself or by hired labour or otherwise, but does not include any market functionary. |
- If a question arises whether any person is an agriculturist or not for the purpose 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
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| (3) | " Bill " means bill issued by the traders as prescribed |
| (4) | " Board " means the State Agricultural Marketing Board, established under section 60 of this Act |
| (5) | " Business " means purchase-sale, processing, value addition, storage, transportation and connected activities of agricultural produce |
| (6) | " Buyer " means a person, a firm, a company or cooperative society or Government Agency, Public Undertaking/ Public Agency or Corporation, Commission agent, who himself or on behalf of any other person or agent buys or agrees to buy agricultural produce in the market area as notified under this Act |
| (7) | " Bye-laws " means the bye-laws made by the Market Committee under this Act & Rules |
| (8) | " Chief Executive Officer " means the Chief Executive Officer of a Market Committee appointed under Section 36 |
| (9) | " Collector " means the Collector of the district or any officer empowered to discharge the duties of the Collector under the provisions of this Act |
| (10) | " Commission Agent " means a person who on behalf of his principal trader and in consideration of a commission or percentage on the amount involved in such transaction buys agricultural produce and makes payment, keeps it in his custody and delivers it to the principal trader in due course or who receives and takes in his custody agricultural produce sent for sale within the market area or from outside the market area, sells the same in the market area and collects payment thereof from the buyer and remits the sale proceeds to his principal trader; |
| (11) | " Contract Farming " means farming by a person called "Contract Farming Producer" under a written agreement with another person called "Contract Farming Sponsor" to the effect that his farm produce shall be purchased as specified in the agreement |

Explanation: 'Contract Farming Producer' means individual agriculturist or association of agriculturists by whatever name called registered under any law for the time being in force. In North Eastern States where the ownership or

- control over the agricultural lands lies with village panchayats or similar bodies legally recognized, such body will be treated as 'Contract Farming Producer'
- (12) **"Contract Farming Agreement "** means the agreement made for contract farming between Contract Farming Sponsor and Contract Farming Producer
 - (13) **"Director"** means the person appointed, by the State Government by notification, as Director of Agricultural Marketing and includes any officer or officers empowered by the State Government by notification, to exercise or perform such of the powers or functions of the Director under the provisions of this Act or the Rules or the bye-laws made thereunder as may be specified in such notification
 - (14) **"District Council"** Jila Panchayat/Janpad Panchayat (Applicable to North eastern States only) means a Council under paragraph 2 of the Sixth Schedule to the Constitution of India
 - (15) **"Export"** means dispatch of agricultural produce outside India
 - (16) **"Exporter"** means such person/firm who exports agricultural produce
 - (17) **"e-trading"** means trading in which billing, booking, contracting, negotiating information exchange, record keeping and other connected activities are done electronically on computer network/internet
 - (18) **"Hamal"** means a labourer, hamal or coolie engaged for Dara-making, loading, unloading, filling, stitching, emptying or carrying any agricultural produce in the notified market area
 - (19) **"Import"** means bringing agricultural produce from outside India;
 - (20) **"Importers"** means such person/firm who imports agricultural produce from outside India;
 - (21) **"Licence"** means - licence granted under this Act
 - (22) **"Licensee"** means a person or association, firm, company, public sector undertaking or society holding a license issued under this Act
 - (23) **"Local authority"** means for the purpose of representation on the Market Committee in relation to an area within the local units of (i) in any Municipal area, the Municipal Corporation, the Municipal Council, the Cantonment Board, the Sanitary Board, the Town Board, Town Improvement Trust or the notified committee or Local authority for the area; (ii) In any rural area, the Zila Parishad, the Village Panchayat, or Panchayat Samiti, Taluka Panchayat or the Nagar Panchayat, or Gaon/Gram Panchayat, Mokhum-Parishad or any other named 'constituted under the Panchayat Act of respective state
 - (24) **"Managing Director"** means the managing director of The State Agricultural Marketing Board appointed under this Act
 - (25) **"Market"** means a market established under section 4 which includes market area, market yard/sub yards and Market Committee
 - (26) **"Market Area"** means area notified under section 4 of this Act
 - (27) **"Market Charges"** includes charges on account of or in respect of commission, brokerage, weighing, measuring, hammali (loading, unloading, and carrying), cleaning, drying, sieving, stitching, stacking, hiring, gunny bags, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing
 - (28) **"Market Committee "** means the agricultural produce Market Committee established under this Act
 - (29) **"Market Functionary"** means a trader, a commission agent, buyer, Hamal, Processor, a stockiest, a trader and such other person as may be declared under the rules or bye-laws to be a market functionary
 - (30) **"Market Yard"** in relation to a market area means a specified place and includes any enclosures, buildings or locality declared as such in any market area by the State Government or the Director or the Managing Director by notification
 - (31) **"Marketing"** means all activities involved in the flow of Agricultural produce from the production points commencing from the stage of harvest till these reach the ultimate consumers viz grading, processing, storage, transport, channels of distribution and all other functions involved in the process
 - (32) **"Notified Agricultural Produce"** means any agricultural produce notified under section 4 of this Act
 - (33) **"Other Backward Classes"** means the other backward classes of Citizens as specified by the State Government from time to time;
 - (34) **"Prescribed"** means prescribed by rules made under this Act
 - (35) **"Private Market Yard"** means such place other than the market yard/sub market yard in the market area where infrastructure has been developed and managed by a person for marketing of notified agricultural produce holding a licence for this purpose under this Act
 - (36) **"Processing"** means any one or more of a series of treatments relating to powdering, crushing, decorticating, dehusking, parboiling, polishing, ginning, pressing, curing or any other manual, mechanical, chemical or physical treatment to which raw agricultural produce or its product is subjected to
 - (37) **"Processor"** means a person who undertakes processing of any notified agricultural produce on his own accord or on payment of a charge
 - (38) **"Registration"** means registration done under this Act
 - (39) **"Regulation"** means regulation made by the Board/Director, in accordance with the provisions of this Act
 - (40) **"Retail Sale"** in relation to a notified agricultural produce means a sale not exceeding such quantity as the Market Committee may by bye-laws, determine to be a retail sale in respect thereof
 - (41) **"Rules"** means rules made under this Act by the State Govt
 - (42) **"Scheduled Castes"** and "Scheduled Tribes" shall carry the same meaning as assigned to them under clause (24) and (25) respectively of Article 366 of the Constitution of India;
 - (43) **"Seller"** means a person who sells or agrees to sell any agricultural produce.
 - (44) **"Special Market"** means a market notified as such and includes special commodity market.
 - (45) **"Sub-Market yard"** in relation to a market area means a specified place other than Market Yard and includes any enclosure, building or locality, declared as such in any market area by the State Government or the Director/Managing Director by notification.
 - (46) **"Trader"** means a person who in his normal course of business buys or sells any notified agricultural produce, and includes a person engaged in processing of agricultural produce, but does not include an agriculturist
 - (47) **"Transportation"** means taking agricultural produce by pushcart, bullock cart, truck or other vehicle in course of business for marketing from one place to another;
 - (48) **"Transporter"** means a person who transport agricultural produce
 - (49) **"Value addition"** means processing, grading, packing or other activities due to which value is added to agricultural produce
 - (50) **"Year"** means the year as may be notified by the Government from time to time

CHAPTER II

Establishment of Markets

- Notification of Intention of developing and regulating
3. (1) Upon a representation made by any person Local authority or by the growers of any agricultural produce within the area for which a market is proposed to be established or otherwise, the State Government or the Director or the

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| marketing of Notified Agricultural produce in specified area. | <p>Managing Director may, by notification and in such other manner as may be prescribed, declare its intention of developing and regulating the marketing of such agricultural produce and in such area as may be specified in the notification</p> <p>(2) A notification under sub-section (1) shall state that any objection or suggestion which may be received by the State Government or the Director or the Managing Director within a period of not less than thirty days, to be specified in the notification shall be considered by the State Govt./Director/Managing Director</p> |
| Declaration of market area and development and regulation of marketing of specified agricultural produce therein. | <p>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 inquiry, if any, as may be necessary, the State Government or the Director/Managing Director may, by notification, declare the area specified in the notification issued under section 3 or any portion thereof to be market area for the purpose of this Act and that marketing of all or any of the kinds of agricultural produce specified in the notification issued under section 3 shall be developed and regulated under this Act in such market area</p> |
| Market Yards, Sub-Market Yards, Farmers/ Consumer/ Farmers market and Private Market. | <p>5. (1) In every market area, there may be :-</p> <ul style="list-style-type: none"> (i) market yard managed by the Market Committee, (ii) one or more than one sub market yards managed by the Market Committee, (iii) one or more than one private market yards/ private markets managed by a person other than a Market Committee, (iv) one or more than one farmers/ consumer markets managed by a person other than a Market Committee, <p>(2) The State Government shall, as soon as may be, after the issue of notification under Section 4, by notification, declare any specified place including any structure, enclosure, open place, or locality in the market area to be a market yard or sub-market yard, as the case may be and</p> |
| Notification of intention to alter limits of or to amalgamate or to split up market areas to de-establish a market | <p>6. (1) The State Government may, by notification, signify its intention-</p> <ul style="list-style-type: none"> (i) to alter the limits of a market area by including within it any other area in the vicinity thereof or by excluding thereof any area comprised therein; or (ii) to amalgamate two or more market areas and constitute one Market Committee thereof; or (iii) to split up a market area and to constitute two or more Market Committees thereof; or (iv) to de-establish a market (v) To modify the list of agricultural produce to be regulated in the market <p>(2) Every notification issued under sub-section(1) shall define the limits of the area which is intended to be included in or excluded from a market area, or of the market area intended to be amalgamated into one , or of the area of each of the markets intended to be constituted after splitting up an existing market area or of the area of the market intended to be de-established, as the case may be, and shall also specify the period which shall not be less than six weeks within which objections, ,if any, shall be received by the State Government</p> |
| Procedure subsequent to notification under section 6 | <p>7. (1) Any inhabitant of the market area or of the areas affected by the notification issued under sub-section (1) of section 6 may, if he objects to anything contained therein, submit his objections in writing to the State Government within the period specified for this purpose in the said notification.</p> <p>(2) When the period specified in the said notification has expired and the State Government has considered and passed orders on such objection as may have been submitted to it within the said period, the State Government may, by notification,</p> <ul style="list-style-type: none"> (a) include the area or any part thereof in the market area or exclude it therefrom; (b) constitute a new Market Committee for the market area amalgamated; or (c) split up an existing market area and constitute two or more Market Committees for such areas, as the case may be; or (d) de-establish the market. (e) Publish modified list of agricultural produce to be regulated in the market |
| Effect of alteration of limits. | <p>8. Where a notification under section 6 has been issued excluding any area from the market area and including any such area in any other market area, the State Government shall after consulting the Market Committee involved frame a scheme to determine what portion of the assets and other properties vested in one Market Committee shall vest in the other Market Committee and in what manner the liabilities of the Market Committees shall be apportioned between the two Market Committees and such scheme shall come into force on the date of publication in the Gazette</p> |
| Power of State Govt. to issue consequential order with respect to constitution etc. of market committees on alteration of limits, amalgamation or splitting up. | <p>9. (1) Where a notification under section 6 has been issued the State Government may pass such consequential orders as it may deem fit in respect of-</p> <ul style="list-style-type: none"> (a) Where a notification is issued under sub-section (2) of Section 7 excluding area from any market area and such excluded area is not declared to be separate market area or a notification is issued under sub-section (2), including any area within the market area, the Market Committee constituted for such market area before the date of such exclusion or inclusion shall, notwithstanding anything contained in this Act, continue to be the Market Committee for the said market area until the reconstitution of such Market Committee under this Act. (b) In the event of amalgamation of dissolved Market Committee, the committee-in-charge shall consist of the following members, namely :- <ul style="list-style-type: none"> i) A Chairman to be nominated by the State Government/ Director/ Managing Director.; ii) Ten representatives of Agriculturists to be nominated by the State Government/ Director/ Managing Director; iii) One representative of Traders to be nominated by the State Government/ Director/ Managing Director; iv) One representative of the Co-operative Marketing Society functioning in the market area to be nominated by the State Government/ Managing Director/ Director: |

- v) An Officer of Agriculture/ Cooperation Department working in the district to be nominated on the recommendation of the Collector/ Director;
 - vi) One member of the Weighmen and Hammals operating in the market area holding licence from the Market Committee to be nominated by the registered union of Hamal & Weighmen;
 - vii) One representative of the Local authority of the headquarter of the committee (Chairman of Nagarpalika/ Mahanagarpalika, Panchayat Samiti or Zilla Parishad as the case may be)
- (c) Where in case of split up of a Market Committee each committee-in-charge consisting of a Chairman, Ten representative of Agriculturists and a representative of Traders shall be constituted;
Provided that :-
- i) Chairman of the dissolved Market Committee shall be nominated Chairman of the newly established Market Committee of which he is a voter and for the other Market Committee, The State Government shall nominate a Chairman who possesses the qualifications prescribed in sub-section (1) of section 15
 - ii) Representative of agriculturists of dissolved Market Committee shall also be nominated as member of newly established Market Committee of which he is voter and remaining representatives of the agriculturists shall be nominated by the State Government who possesses the qualifications prescribed in sub-section (1), (2) and (3) of section - 14C.
 - iii) Representative of traders of the dissolved Market Committee shall be nominated as a member of the newly established Market Committee of which he is a voter and for the other Market Committee, the State Government shall nominate such licensee trader as representative of traders who possesses the qualifications prescribed in clause (c) of sub-section (1) of section -14C.
 - iv) One representative of the Co-operative marketing society functioning in the market area to be nominated by the State Government / Managing Director / Director (who shall be elected by the managing committee of such society);
 - v) An officer of the Agriculture Department working in the district to be nominated on the recommendation of the Collector/ Director;
 - vi) One member of the Weighmen and Hammals operating to be nominated by the registered union of Hamal & Weighmen;
 - vii) One representative of the Local authority of the places where the Market Committee is located (Chairman of Nagarpalika/ Mahanagarpalika, Panchayat Samiti or Zilla Parishad as the case may be)
 - viii) The committee-in-charge constituted under sub-section (1) shall subject to the control of the Director/ Managing Director, exercise all the powers and perform all the duties of the Market Committee under this Act
- (2) The provisions of section 14 shall apply to the constitution of a Market Committee under sub-section (1) as they apply to the constitution of a Market Committee for a market established for the first time

CHAPTER III

Constitution of Market Committee

Establishment of Market Committee and its incorporation

10. (1) For every market area, there shall be a Market Committee having jurisdiction over the entire market area.
- (2) Every Market Committee shall be a body Corporate by such name as the State Government or the Director may, by notification, specify. It shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall subject to such restrictions as are imposed by or under this Act, be competent to conduct and to acquire, hold, lease, sell or otherwise transfer any property and to do all other things necessary for the purpose for which it is established.
- Provided that no immovable property shall be acquired or transferred by way of sale, lease or otherwise without the prior permission of the Director/Managing Director
- (3) Notwithstanding anything contained in any enactment for the time being in force, every Market Committee shall for all purposes, be deemed to be a Local authority

Vesting of property of Local authority in Market Committee

11. (1) The Market Committee may require a Local authority to transfer to it any land or building belonging to the Local authority which is situated within the market area and which, immediately before the establishment of the market was being used by the Local authority for the purposes of the market and the Local authority shall within one month of the receipt of the requisition, transfer the land and or building, as the case may be, to the Market Committee on such terms as may be agreed between them
- (2) Where within a period of thirty days from the date of receipt of requisition by the Local authority under sub-section (1) no agreement is reached between the Local authority and the Market Committee under the said sub-section, the land or building required by the Market Committee shall vest in the Market Committee for the purposes of this Act and the 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 had been vested in it by virtue of the provision contained in the enactment relating to the Constitution of such Local authority without payment of any amount whatsoever may be, for such vesting.

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

- (3) The Local authority shall deliver possession of the land or building vesting in the Market Committee under sub-section (2) within a period of seven days from such vesting and on failure of the Local authority to do so, within the period aforesaid, the Collector shall take possession of the land or building and cause it to be delivered to the Market Committee .
- (4) The order of the State Government and subject to that order, the order of the 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 of the present value of any building erected or other work executed on the land by the Local authority.
- (6) The compensation fixed under sub-section (5) may, at the option of the Market Committee, be paid in lump sum or in such number of equal installments not exceeding ten as the Collector may fix. Where the compensation is paid in installments, it shall carry interest at the rate of six per cent per annum which shall be payable along with installments

Acquisition of land for Market Committee.

12. (1) When any land within the market area is required for the purposes of this Act and the Board or the Market Committee is unable to acquire it by agreement, the State Government may, at the request of the Board or the Market Committee, as the case may be, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 (No. 1 of 1894) and on the payment of the compensation awarded under that Act by the Board or Market Committee and of any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the board or the Market Committee, as the case may be.
- Provided that once a proposal is made by the Market Committee, it shall not be withdrawn by it except for such reasons as may be approved by the State Government.
- (2) The Board or the Market Committee shall not without the previous sanction of the State Government transfer any land which has been acquired for this purpose by the Board or the Market Committee under subsection (1) or divert such land to a purpose other than the purpose for which it has been acquired.

Provided that the premises used for market yard, sub market yard or for the purpose of the Board shall not be deemed to be included in the limits of the Municipal Corporation, Municipal Council, Notified Area, Gram Panchayat or a Special Area Development Authority, as the case may be.

Appointment of Officer-in-Charge of Market Committee-pending constitution of first Market Committee

13. (1) When a Market Committee is established for the first time under this Act, the State Government or the Director or Managing Director shall by an order appoint;

A person to be the officer-in-charge for a period not exceeding two years, or a committee-in-charge for a period not exceeding two years. The members of the Market Committee may be appointed from among persons representing the same interests and in the same proportion as specified in section (14). The Officer-in-Charge or the Committee-in-charge shall subject to the control of the Director/Managing Director, exercise all the powers and perform all the duties of the Market Committee under this Act;

Provided that the State Government or the Director may at any time during the period aforesaid appoint committee-in-charge in place of Officer-in-Charge and officer-in-charge in place of Committee-in-charge as the case may be, so appointed shall hold office or shall function for the remainder of the period available to its predecessor;

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

Provided that if the Market Committee is constituted before the expiry of the period aforesaid the officer-in-charge shall cease to hold office or the committee-in-charge shall cease to function on the date appointed for the first general meeting of the newly constituted Market Committee.
- (2) In the event of a vacancy occurring on account of death, resignation or otherwise of the members of the Market Committee -in-charge, the vacancy shall be filled in by fresh appointment by the State Government or the Director or the Managing Director.
- (3) Any officer-in-charge or any or all persons appointed as the committee-in-charge under clause (a) of sub-section (1) may at any time be removed by the Director/Managing Director who shall have power to appoint another person or persons, as the case may be, in his or their place or places.
- (4) Every person appointed officer-in-charge under sub-section (1) shall receive from the Market Committee fund for his services such honorarium and allowances as may be fixed by the Director/Managing Director and every member of the committee-in-charge shall be entitled to receive from the Market Committee fund, allowances at such rate at which allowances are payable to members of the Market Committee

Constitution of the Market Committee

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

Ten members shall be agriculturists possessing such qualifications as may be prescribed to be elected by the Managing Committee members of the primary agricultural cooperative societies functioning in the market area and by the Sarapanch & members of the village Panchayats of which 7 shall be elected from amongst the committee members of Primary Agricultural Societies

Provided further out of 10 representatives of agriculturist atleast one shall belong to each of the following sections

of the society.

1. Scheduled Caste/Tribe (one member)

2. Other Backward Class (one member)

Woman (one member)

Provided further that no agriculturist will be eligible to be elected as representative of agriculturists unless he has sold agricultural produce in the market in preceeding two successive years.

Provided further if the committee is established first time, then no agriculturist will qualify to be elected as a representative of agriculturist unless he has sold agricultural produce in the market during the last six months.

(ii) Two members shall be licensed traders elected amongst them in the manner prescribed;

One member shall be a representative of the Co-operative Marketing Society/, which has the headquarters within market area.

Provided further if there are more than one such society the representative will be elected as prescribed.

(iv) Two members shall be the Government nominees out of which one member shall be the representative of the State Department of Agricultural/ Cooperation/ Agricultural Marketing.

One representative of the Hamal & Weighmen to be nominated by the registered union of the Hamals & Weighmen.

One representative of Local authority (Chairman of Nagarpalika, Mahanagarpalika, Panchyat Samiti or Zilla Parishad as the case may be).

- (2) A member elected under clauses (i), (ii), (iii) and (vi) of sub-section (1) shall cease to hold office as such member if he ceases to be a member of the electorate by which he was elected.
- (3) The State Government may make rules to provide for the election of the members of the Market Committee, the authority which shall conduct election, determination of constituencies, the preparation and maintenance of the list of voters, dis-qualifications for being chosen as and for being, a 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 clause (i) and (ii) of sub-section (1) to elect a 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 there under, the State Government shall nominate on behalf of the electorate concerned a person or persons qualified to be a member as member or members of the Market Committee .
- (5) Members of every Market Committee shall hold office for a period of five years from the date of the first general meeting of the Market Committee .
- (6) If within the period mentioned in sub-section (5) the Market Committee is not newly constituted, the Market Committee shall on the expiry of such period, be deemed to have been dissolved.
- (7) An elected member of the Market Committee may resign his office at any time by a letter in writing addressed to the Director/Managing Director to that effect and his office shall become vacant on expiry of fifteen clear days from the date of such resignation unless within the said period of fifteen days he withdraws the resignation by another letter in writing addressed to the Director/ Managing Director.
- (8) In the event of the death, resignation or removal of a member before the expiry of his term of office, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled as soon as may be by 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/ Managing Director from time to time

OR (Choose 14 or set of 14A, 14B, 14C,14D)

Constitution of the Market Committee

14.A(1) A Market Committee shall consist of-

(a) the Chairman elected under Section 17.

Ten representatives of agriculturists possessing such qualifications as may be prescribed chosen by direct election from the constituencies of a market area in accordance with the provisions of this Act and the rules made there under;

Provided further that no agriculturist may be qualified to be elected as representatives of agriculturist unless he has sold agricultural produce in the market successively for last two years.

Provided further if the committee is established first time, then no agriculturist will qualify to be elected as a representative of agriculturist unless he has sold agricultural produce in the market during the last six months.

One representative of traders possessing such qualifications as may be prescribed, elected by and from amongst the persons holding registration from the Market Committee for a period of two successive years as traders or owners or occupiers of processing factories under this Acts;

Provided that in the case of Market Committee established for the first time under Section 13, the qualifying period

of holding license from such Market Committee shall be six months:

Provided further if total number of registered traders for a period of their successive years is more than 1000 then there will be two representatives

Provided also that no person shall be a voter of more than one Market Committee at a time.

Provided also that no person shall be a voter unless;

(i) he has completed the age of 18 years.

(ii) he is not a defaulter of the Market Committee.

(2) Every committee will have following committee members

(a) One representative of the Co-operative Marketing Society functioning in the market area who shall be elected by the managing committee of such society:

Provided that if more than one such society functions in the market area, such member shall be elected by all the members of the managing committees of such societies:

Provided further that nothing in this clause shall apply if the managing committee of any society stands superseded under the provisions of the State Co-operative Societies Act;

(b) An Officer of the Agriculture Department of the State Government to be nominated by the Collector/ Director;

(c) One representative of the Weighmen and hammals operating in the marketing area holding license from the Market Committee to be nominated by the Chairman of the Market Committee .

(d) One representative of the Gram Panchayat or Janpad Panchayat or Zilla Panchayat that falls within the jurisdiction of the market area nominated by the Chairperson of the Zilla Panchayat:

Provided that in the Market Committee situated at the District headquarters the representative shall be nominated from amongst the members of the Zilla Panchayat only.

(3) Only members under sub-section (1) shall have a right to vote.

(4) The State Government may make rules for the preparation of voters' list and conduct of election.

(5) If the electorate under clause (b) or (c) of sub-section (1) fails to elect a representative, the Collector shall nominate the representative of the agriculturists or traders, as the case may be.

(6) Every election and nomination of the member shall be notified by the Collector in the official gazette.

Division of market area for constituencies and reservation of seat.

14B (1) The Collector shall by notification divide a market area into as many numbers of constituencies equal to the number of the representatives of the agriculturists to be chosen from that area.

(2) Seats shall be reserved for Scheduled Castes and Scheduled Tribes in every Market Committee and the number of seats so reserved shall bear as nearly as may be the same proportion to the total number of seats to be filled in that Market Committee as the population of Scheduled Castes or Scheduled Tribes in that Market area bears to the total population of that area and such seats shall be allotted to the constituencies in the prescribed manner.

(3) Where the total number of seats belonging to Scheduled Castes and Scheduled Tribes in a market area is fifty percent or less than fifty percent, twenty five percent of total number of seats shall be reserved for Other Backward Classes.

(4) Not less than one third of the total number of seats reserved under sub-sections (2) and (3) shall be reserved for women belonging to Scheduled Castes or Scheduled Tribes or Other backward Classes, as the case may be

(5) Not less than one third (including the number of seats reserved for women belonging to Scheduled Castes, Scheduled Tribes and Other backward Classes) of the total number of seats shall be reserved for women and such seats shall be allotted by the Collector to different constituencies in the prescribed manner

(if the election is indirect, this will not apply).

Qualification to vote and to be representative of agriculturist.

14C.(1) Every person-

(a) whose name is entered as Land owner in the village land records;

(b) who ordinarily resides in the market area;

(c) who has completed the age of 18 years; and

(d) whose name is included in the voter's list prepared under the provisions of this Act and the rules made there under: shall be qualified to vote at the election of a representative of agriculturists:

Provided that no person shall be eligible to vote in more than one constituency.

(2) No person shall be qualified to be elected as a representative of agriculturists unless-

(a) his name is included in the list of voters as agriculturist of the market area;

(b) he is an agriculturist;

(c) he is otherwise not disqualified for being so elected.

(3) No person shall be eligible for election from more than one Market Committee or constituency as the case may be.

First meeting, terms of officer, resignation by Chairman, Vice-chairman or member and vacancy in their office.

- 14D (1) The first meeting of the Market Committee shall be convened by the Collector within one month from the date of publication of result of election of Chairman and members in the official gazette.
- (2) The Chairman, Vice Chairman and members of the Market Committee shall hold office for a period of five years from the date of the first meeting of the Market Committee :
- Provided that if on the expiry of the term of the Market Committee, a new Market Committee is not constituted the Market Committee shall be deemed to have been dissolved and in such an event the provisions of Section 13 shall apply
- (3) The Chairman, Vice Chairman or a member may resign his office at any time in writing addressed to the Collector and such resignation shall be effective from the date of its acceptance by the Collector.
- (4) Any person who is elected as a Chairperson or Vice Chairperson of a Municipal Corporation, Municipal Council, Nagar Panchayat, Panchayat or Co-operative Society is elected as Chairperson or Vice Chairperson of the Market Committee or vice versa may, by notice in writing signed by him and delivered to the Collector/prescribed authority within thirty days from the date, or the later of the dates, on which he is elected, intimate in which of the office he wishes to serve, and thereupon, his seats in the body in which he does not wish to serve, shall become vacant and in default of such intimation within the aforesaid period, his seat in the Market Committee shall, on the expiration of that period, become vacant.
- (5) In the event of death, resignation, or removal of the Chairman, Vice Chairman or a Member before the expiry of his term or on the occurrence of a vacancy under sub-section (4), or otherwise, a casual vacancy shall be deemed to have occurred in such office and such vacancy shall be filled within six months by election in accordance with the provisions of the Act and the rules and a person so elected or nominated shall hold office for the unexpired portion of the term of his predecessor:
- Provided that if the remaining term of the office is less than six months, such vacancies shall not be filled in.
- (6) In the event of occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or removal or otherwise the Vice Chairman and if the office of the Vice Chairman is also vacant then notwithstanding anything contained in this Act, such a member of the Market Committee who is elected under clause (i) of sub-section (l), of Section 14, as the Collector may appoint shall exercise powers and perform the functions of the Chairman till the Chairman is duly elected

Chairman and Vice-chairman of Market Committee

15. (1) Every Market Committee shall have a Chairman and a Vice-Chairman. The Chairman & Vice-chairman shall be elected by the elected members of the Market Committee from amongst those who are representatives of agriculturists.
- (2) After every general election, the Market Committee shall elect the Chairman and Vice-chairman at its first general meeting, which shall be convened by the Director/Managing Director/Collector within one month of the general election. The Chairman and Vice-chairman so elected shall hold office for the full term from the date on which they enter upon their respective offices.
- (3) The Chairman and Vice-chairman shall notwithstanding the expiry of their term of office, continue to hold office until their successors enter upon their office.
- (4) The meeting convened for the election of the Chairman and Vice-chairman shall be presided over by the Director/Managing Director or any officer authorised by him in this behalf. The Director/Managing Director or such officer, when presiding over the meeting, has 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 or Vice-chairman there is an equality of vote, the result of the election shall be decided by lots to be drawn in the presence of the officer presiding in such manner as he may determine.
- (6) In the event of dispute, arising as to the validity of the election of a Chairman or Vice-chairman the Collector, if he is the presiding officer shall decide the dispute himself and in any other case officer presiding shall refer the dispute to the Collector for decision. The decision of the Collector shall subject to an appeal to the Commissioner shall be final and no suit or other proceedings shall lie in any Court of Law in respect of such decision.

Election of Chairman and Vice-chairman

- 15A (1) **OR**
The Chairman shall be chosen by direct election by the persons qualified to vote for the election of representatives of the agriculturists and traders in the prescribed manner:
- Provided that no person shall be eligible for election as Chairman unless he is qualified to be elected under sub-section (2) & (3) of Section 14C.
- (2) The offices of the Chairman shall be reserved for the Scheduled Castes and Scheduled Tribes and the number of offices so reserved shall bear, as nearly as may be, the same proportion to the total number of such offices in the State as the population of the Scheduled Castes and Scheduled Tribes in the States bears to the total population of the State and these offices shall be allotted, by the Director/Managing Director to the Market Committees in the prescribed manner.
- (3) Twenty five percent of the total number of offices of Chairman shall be reserved for Other Backward Classes and such seats shall be allotted in the prescribed manner by the Director/Managing Director, to such Market Committees, which are not reserved for Scheduled Castes or Scheduled Tribes.
- (4) Not less than one third of the total number of offices of Chairman reserved under sub-sections (2) and (3) shall be reserved for women belonging to Scheduled Castes or Scheduled Tribes or Other Backward Classes, as the case may be.
- (5) Not less than one third (including the number of offices) reserved for women belonging to the Scheduled Castes and Scheduled Tribes and Other Backward Classes of the total number of offices of Chairman in the State shall be reserved for women and such offices shall be allotted by the Managing Director to different Market Committees in the prescribed Manner.
- (6) No person shall be eligible to contest election simultaneously for office of the Chairman and member.
- (7) If any market area fails to elect a Chairman fresh election proceedings shall be initiated to fill the office within six months:

Provided further that pending the election of Chairman under this sub-section the Vice-chairman shall discharge all

the functions of the Chairman.

- (8) There shall be a Vice-chairman of the Market Committee who shall be elected by and from amongst the elected member thereof in the first meeting of the Market Committee convened under sub-section (1) of Section 14 in the prescribed manner;

Provided that if the Chairman of the Market Committee does not belong to Scheduled Castes, Scheduled Tribes or Other Backward Classes, the Vice Chairman shall be elected from amongst the elected members belonging to such castes, tribes or classes:

Provided further that no person shall be eligible for election as Vice-chairman unless he is an agriculturists.

- (9) Every election of Chairman and Vice-chairman shall be notified in the office Gazette by the Collector.

Resignation by Chairman and Vice-chairman & Vacancy in their office.

16. (1) A member holding office of Chairman or Vice-chairman may resign his office at any time in writing addressed to the Collector/ 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 Collector/ Director.
- (2) Every Chairman and Vice-chairman shall vacate office if he ceases to be a member of the Market Committee .
- (3) During the vacancy caused by death, resignation, removal or otherwise in the office of the Chairman, the Vice-chairman and if the office of vice Chairman is also vacant then notwithstanding anything contained in this Act, such member of the Market Committee as the Collector may appoint, shall exercise the powers and perform the functions of the Chairman till the Chairman is duly elected

No confidence motion against Chairman and Vice-chairman.

17. (1) A motion of no confidence may be moved against the Chairman or the Vice-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 of the committee, cease to be the Chairman or Vice-chairman as the case may be.
- (2) For the purpose of sub-section (1) a meeting of the Market Committee shall be held in the prescribed manner within thirty days of the date of receipt of the notice of motion of no confidence.
- (3) The Chairman or Vice-chairman shall not preside over the meeting, but such meeting shall be presided over by an officer of the Government as the Collector/Director/Managing Director may appoint for the purpose. However, the Chairman or Vice-chairman as the case may be, shall have the right to speak and otherwise to take part in the proceedings of the meeting.
- (4) If the motion of no confidence is not accorded as aforesaid or if the meeting could not be held for want of quorum, no notice of any subsequent motion expressing vote of confidence in the same Chairman or Vice-chairman shall be made until after the expiry of six months from the date of such scheduled meeting

Seizure and taking possession of record and property of Market Committee under certain conditions

18. (1) Where the Director/Managing Director is satisfied that the books and records 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 Director/ Managing Director may order for seizure and taking possession of the record and property of the Market Committee .
- (2) On receipt of the Order under sub-section (1), the police officer not below the rank of sub-Inspector of the local area shall enter and search any place where the records and property are kept or are likely to be kept and to seize them and hand over possession thereof to the Director/ Managing Director or the person authorized by him, as the case may be

CHAPTER - IV

Classification of Market and Special Market

Classification of market

- 19 State Government/ Director/ Managing Director may classify the market constituted under Section – 4, in to various categories on the basis of the criteria as may be prescribed.

Special Market and Special Commodity Market

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

Constitution of Market Committee for Special market.

21. (1) Save as provided under sub section 1 of section 14, every Market Committee for special market shall consist of following members namely :
1. Agriculturists (to be nominated by the State Govt. from amongst the agriculturists residing in the State)..... 5.
 2. Traders (to be nominated by the State Government from amongst the traders holding trading licence in any Market Committees in the State). Out of the traders so nominated, at least two shall hold the licence from the Market Committee of Special Market4
 3. Municipal Commissioner or his nominee of the area where the Special Market is located 1

4. The Collector or his nominee of the District in which Special Market is located1
5. Chief Town Planner or the authority exercising such powers1
6. Representative of the Registrar of Cooperative Societies1
7. Director of marketing of the State or his nominee (ex-officio member).....1
8. Chief Executive Officer (or his nominee) of the State Agricultural Marketing Board (ex-officio Member).....1
9. Representative of other States where from arrivals are received by the special market (to be nominated by the respective State Government. on receipt of request for such nomination by the State Government where Special Market is located 3 (preferably growers)
10. Executive Member (to be appointed by the State Government). Executive member shall Act as the chief executive officer of the Market Committee1.
11. Agricultural Marketing Advisor to the Government of India or his nominee 1

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

Chairman and Vice
chairman for Special market

22. The Market Committee, for Special Market shall have Chairman and Vice-chairman who may be nominated by the State Government for such period as may be specified. The members shall hold office during the pleasure of the State Government.

Executive Committee for
Special Market

23. (1) There shall be Executive Committee of the Market Committee of the Special Market consisting of

- (i) One representative of the traders holding the trading license in the Market Committee of Special Market.
- (ii) One representative of growers.
- (iii) Representative of the Registrar of cooperative societies.
- (iv) Director of Marketing or his nominee.
- (v) Chief Executive Officer (or his nominee) of the State Agricultural Marketing Board.

(vi) Executive Member of the Market Committee who shall Act as the Member-Secretary of the Executive committee.

(2) In case of emergency, the Executive Committee may decide issues requiring approval of the Market Committee .

However, such decisions shall have to be approved by the Market Committee within 45 days from the date, such decisions have been taken. Failure in doing so or in the event of disapproval of such decisions by the Market Committee, such decisions shall stand null and void.

(3) The Executive Committee will meet as often as necessary, but at least once in two months.

Chief Executive of the Market
Committee of Special Market,
Functions & powers.

24. Executive member of the Market Committee shall Act as the Chief Executive Officer of the Market Committee of the Special Market. The Chief Executive officer shall

- (i) Exercise supervision and control over the officers and staff of the Market Committee in matter of executive administration concerning accounts and records and disposal of all questions relating to the services of the officers and staff of the Market Committee as per the prescribed procedure.
- (ii) appoint officers and staff of the Market Committee as per direction and procedure prescribed by the Market Committee .
- (iii) Incur expenditure from the Market Committee fund for the sanctioned items of work.
- (iv) in cases of emergency, direct the execution of stoppage of any work and doing of any Act which requires the sanction of the Market Committee .
- (v) launch prosecution for violation of provision of this Act and rules and by-laws made thereof.
- (vi) issue licences to the functionaries operating in the market.
- (vii) prepare Annual budget of the Market Committee .
- (viii) arrange for summoning the meetings of the Market Committee and maintenance of records of the proceedings of such meetings.
- (ix) inspect from time to time the construction work undertaken by the Market Committee and send report of such inspection to the Chairman of the Market Committee .
- (x) report such acts of the Market Committee or members of the Market Committee including the Chairman and Vice-chairman which are contrary to the provisions of this Act and Rules and by-laws framed thereof to the Director of Marketing.
- (xi) take such steps as deemed necessary for effective discharge of the functions and decisions of the

CHAPTER V

Conduct of Business And Powers and

Duties of Market Committee

- Meeting etc. of the Market Committee**
25. (1) Subject to the provisions of this Act, the Market Committee shall conduct its business as may be prescribed
- (2) A Market Committee shall meet for the transaction of its business at least once in every month, provided that the Market Committee may in special circumstances meet at any time and at any place in the market area as may be prescribed.
- (3) Chairman shall preside over meetings of Market Committee and if he is absent, the Vice-chairman shall preside over meeting of the Market Committee and if at any meeting both the Chairman and the Vice-chairman are absent, such one of the members present in the meeting as may be chosen by the members present may Act as Chairman.
- Powers and duties of the Market Committee**
26. (1) Subject to the provisions of this Act, it shall be the duty of the Market Committee
- (i) to implement the provisions of this Act., the rules and the bye-laws made thereunder in the market area;
- to provide such facilities for marketing of agricultural produce therein as the Director/Managing Director/Board or the State Government may from time to time direct;
- to do such other acts as may be required in relation to the superintendence, direction and control of market or for regulating marketing of agricultural produce in any place in the market area, and for the purposes connected with the matters aforesaid, and for that purpose may exercise such powers and discharge such functions as may be provided by or under this Act.
- and to do all such other acts to bring about complete transparency in pricing system and transactions taking place in market area.
- (2) Without prejudice to the generality of the forgoing 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 sub-market yards in the market area;
- (iii) register or refuse registration to market functionaries and renew, suspend or cancel such registration, supervise the conduct of the market functionaries and enforce conditions of Registration;
- (iv) regulate or supervise the auction of notified agricultural produce in accordance with the provision and procedure laid down under the rules made under this Act or bye-laws of the Market Committee ;
- (v) conduct or supervise the auction of notified agricultural produce in accordance with the procedure laid down under the rules made under this Act or bye-laws of the Market Committee ;
- (vi) regulate the making, carrying out and enforcement or cancellation of agreements of sales, Weighment, delivery, payment and all other matters relating to the market of notified agricultural produce in the manner prescribed;
- (vii) provide for the settlement of all disputes between the seller and the buyer arising out on any kind of transaction connected with the marketing of notified agricultural produce and all matters ancillary thereto;
- (viii) take all possible steps to prevent adulteration of notified agricultural produce;
- make arrangements for employing by rotation, Weighmen and hammals for weighing and transporting of goods in respect of transactions held in the market yard/ sub yards.
- Set up and promote public private partnership in management of the Agricultural Markets.
- To promote public private partnership for carrying out extension activities in its area viz., collection, maintenance and dissemination of information in respect of production, sale storage, processing, prices and movement of notified agricultural produce;
- take measures for the prevention of purchases and sales below the minimum support prices as fixed by the Government from time to time;
- levy, take, recover and receive rates, charges, fees and other sums of money to which the Market Committee is entitled;
- employ the necessary number of officers and servants for the efficient implementation of the provisions of this Act, the rules and the bye-laws as prescribed;
- regulate the entry of persons and vehicles, traffic into the market yard and sub-market yard vesting in the Market

Committee;

prosecute persons for violating the provisions of this Act, the rules and the bye-laws and compound such offences;

acquire land and dispose of any movable or immovable property for the purpose of efficiently carrying out its duties;

impose penalties on persons who contravenes 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 the Market Committee , its Chairman or by any officer duly authorised in this behalf;

institute or defend any suit, prosecution, action, proceeding, application or arbitration and compromise such suit, action proceeding, application or arbitration;

Pay, pension, allowances, gratuities, contribution towards leave allowance, pensions or provident fund of the officers and servants employed by the Market Committee in the manner prescribed;

administer Market Committee fund referred to in section-58 and maintain the account thereof in the prescribed manner;

keep a set of standard weights and measure in each principal market yard and sub-market yard against which Weighment and measurement may be checked;

inspect and verify scales, weights and measures in use in a market area and also the books of accounts and other documents maintained by the market functionaries in such manner as may be prescribed;

arrange to obtain fitness (health) certificate from veterinary doctor in respect of animals, cattle birds etc., which are bought or sold in the market yards/market area;

carry out publicity about the benefits of regulation, the system of transaction, facilities provided in the market yard etc. through such means as poster, pamphlets, hoardings, cinema slides, film shows, group meetings, electronic media etc., or through any other means considered more effective or necessary;

ensure payment in respect of transactions which take place in the market yard to be made on the same day to the seller, and in default to seize the agricultural produce in question along with other property of the person concerned and to arrange for re-sale thereof and in the event of loss, to recover the same from the original buyer together with charges for recovery of the losses, if any, from the original buyer and effect payment of the price of the agricultural produce to the seller;

recover the charges in respect of Weighmen and hammals and distribute the same to Weighmen and hammals if not paid by the purchaser/seller as the ease may be;

with the prior sanction of the State Government/ Director/Managing Director undertake the constructions of godowns, roads and such other infrastructure in the market yard/sub yard and market area as may be required to facilitate movement of agricultural produce to the market for benefit of producer sellers and traders operating in the market area.

collect and maintain information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce and disseminate such information as directed by the Director;

with a view to maintain stability in the market (a) take suitable measures to ensure that traders do not buy agricultural produce beyond their capacity and avoid risk to the sellers in disposing of the produce; and (b) grant licences only after obtaining necessary security in cash as bank guarantee according to the capacity of the buyers;

- (3) to promote and undertake agricultural processing including activity for value addition in agriculture produce.
- (3) With the prior sanction of the Director/Managing Director, the Market Committee may undertake the following:
- (i) construction of roads, godowns and other infrastructure in the market area to facilitate marketing of agricultural produce and for the purpose give grant or advance funds to the Board, the Public Works Department or any other Department or undertaking of the State Government or any other agency authorized by the Director/ Managing Director.
 - (ii) maintain stocks of fertilizer, pesticides, improved seeds, agricultural equipments, inputs for sale.
 - (iii) to provide on rent storage facilities for stocking of agricultural produce to agriculturists.
 - (iv) to give grant for maintenance of the "Goshalas" recognized by the State Govt.
- (4) In addition to above the Market Committee shall also be responsible for
- (i) the maintenance of proper checks on all receipts and payment by its officers;
 - (ii) the proper execution of all works chargeable to the Market Committee fund
 - (iii) keeping a copy of this Act and of the rules and notifications issued thereunder and of its bye-laws, open to inspection free of charge at its office; and
 - (iv) arranging for preventive measures against spread of contagious cattle disease.
- (5) To promote and encourage e-trading, market committee may establish regulatory system, create infrastructure and undertake other activities and steps needed thereto.

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| Appointment of sub-committee and delegation of powers | 28. | Subject to such conditions and restrictions as may be prescribed, the Market Committee may appoint sub-committees consisting of one or more of its members for the performance of any of its duties or functions for reporting or giving opinion on any matter and may delegate to any such sub committee such of its powers as may be necessary. |
| Power to borrow | 29. (1) | A Market Committee may with the previous sanction of the Director/Managing Director, raise money or issue debentures required for carrying out the purpose for which it is established on the security of any property vested in it and of any fees 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 State Government or Marketing Board or other financial institution. |
| | (3) | The conditions subject to which money or loan under sub-section (2) shall be raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the State Government or the Director or the Managing Director. |
| Compounding of offences. | 30. (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 section 39 against this Act or the rules or bye-laws, made thereunder by way of compounding of such offence :— |
| | | (a) Where the offence consists of the failure to pay or the evasion of any fee, or other amount recoverable under this Act or the rules or the bye-laws in addition to the fee or other amount so recoverable a sum of money not less than the amount of the fee or other amount and not more than five times the amount of fee or other amount to the maximum extent of rupees five Thousand, and |
| | | (b) In other cases a sum of money not exceeding five 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 an offence, and if any proceedings in respect of that offence have already been instituted against him in any court, the compounding shall have effect of his acquittal. |
| Power to write off irrecoverable fee etc. | 31. | A Market Committee may write off any fee or amount whatsoever due to it, whether under a contract or otherwise, or any amount payable in addition therewith if in its opinion such a fee or an amount is irrecoverable. |
| | | Provided that the Market Committee shall, before writing off any such fee, or amount obtain the sanction of the Director/ Managing Director, if the fee or amount exceeds Rupees fifty thousand. |
| Power to remove encroachment on market yard. | 32. (1) | Any officer or servant of the Market Committee the Board empowered by the State Government in this behalf shall have power to remove any encroachment in a space in the market yard and the expenses of such removal shall be paid by the person who has caused the said encroachment and shall be recovered in the same manner as arrears of land revenue. |
| | (2) | Existence of encroachment in market yard will be treated as a misconduct of committee, if it does not resolve to remove it and also of the Chairman, Vice-chairman or the Chief Executive Officer if they fail to remove it after resolution of the committee. |
| Use of weighing instruments, weight and measure, their inspection | 33. (1) | Only such weighing instruments which satisfy the requirements of such weights and measures as are prescribed by the State Weights and Measure Act and the rules made their under shall be used for weighing or measuring agricultural produce in a notified market area; |
| | | Provided that in transactions of sale and purchase of agricultural produce in the principal market yard and sub-market yards of the notified market area the beam scale or platform scale or electronic balance shall only be used. |
| | (2) | Every committee shall keep in the market yard at least one weighing instrument of the capacity of one quintal and two sets of weights and in places where measures are used to be measured, verified and stamped in accordance with the provisions of the State Weights and Measures Act, and the rules framed thereunder. The committee shall cause with 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 measures maintained under this section |
| | (4) | Weighing instruments, weights and measures kept by the committee under this section may at any time be inspected, examined and checked by the Director or the Managing Director or any other officer duly authorised in this behalf by the Director/Managing Director. 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/Managing Director or the Market Committee , and any other person authorized in this behalf by the Director/ Managing Director or Market Committee shall be entitled at any time and without previous notice to inspect, examine and test any weighing instruments, weights or measures used, kept or possessed within a notified market area by a licensee under the Act, and every such licensee in possession of any such weighing instrument, weights or measures shall when required be bound to produce the same before the person entitled so to inspect, examine and test it. |
| | (6) | Any person authorised to inspect, examine and test any weighing instrument, weights or measures under sub-section (5) shall, while so acting, have all the powers of an Inspector, Weights and Measures appointed under the State Weights and Measures Act. |

Mode of making contract

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

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

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

(a) Chief Executive Officer of the Market Committee may execute contract or agreement on behalf of the Market Committee where the amount or value of such contract or agreement does not exceed rupees five thousand regarding matters in respect of which he is generally or specifically authorized to do so by a resolution of the Market Committee

(b) the Chairman and Chief Executive Officer of the Market Committee may jointly execute a contract or an agreement on behalf of the Market Committee when the amount or value of such a contract or an agreement does not exceed rupees twenty thousand depending on the class of the Market Committee as may be prescribed.

(c) in any case other than those referred to in clause (a) of (1) a contract or agreement on behalf of the Market Committee shall be executed by the Chairman, Chief Executive Officer 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 into by the Market Committee shall be in writing and shall be signed on behalf of the Market Committee by the person or persons authorized to do so under sub-section (2).

- (4) No contract other than a contract executed as provided in sub-section (1), (2) or (3) shall be valid and binding on the Market Committee.

- (5) (a) Notwithstanding anything contained in the Indian Registration Act, 1908 (No. 16 of 1908), it shall not be necessary for the Chairman or any member or officer or Chief Executive Officer of a Market Committee to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of the Act.

(b) Where any instrument is so executed, the Registration Officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Chairman, member, officer or Chief Executive Officer for furnishing information respecting the same and shall on being satisfied of the execution thereof, register the instrument.

Where a contract or agreement is entered into on behalf of a Market Committee, the Chief Executive Officer of the Market Committee shall report the fact to the Market Committee at its meeting convened and held immediately following the date of entering into such a contract or an agreement.

Act of Market Committee etc. not to be invalidated

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

CHAPTER-VI

Staff of Market Committee

Chief Executive Officer of Market Committee

36. (1) Every Market Committee shall have a Chief Executive officer who shall be the chief executive of the market and the custodian of all the records and properties of the market and shall exercise and perform the following powers and duties in addition to such other duties as may be specified in this Act, the rules or bye-laws, namely
- (i) Convene the meetings of the Market Committee and of the sub-committees, if any, and maintain minutes of the proceedings thereof;
- (ii) attend the meetings of the Market Committee and of every sub-committee and take part in the discussions but shall not move any resolution or vote at any such meeting;
- (iii) take action to give effect to the resolution of the committee and of the sub-committees, and report about all actions taken in pursuance of such resolution to the committee as soon as possible;
- (iv) prepare the budget proposal;
- (v) furnish to the Market Committee such returns, statements, estimates, statistics and reports as the Market Committee may from time to time, require including reports
- (a) regarding the fines and penalties levied on and any disciplinary action taken against the members of the staff and the market functionaries and others;
- (b) regarding over-trading by traders;
- (c) regarding contravention of the Act, the rules, the bye-laws of the standing orders by any person,
- (d) regarding the suspension or cancellation of licence by the Chairman or the Director;
- (e) regarding the administration of the Market Committee and the regulation of the marketing;
- (vi) produce before the committee such documents, books, registers and the likes as may be necessary for the

transaction of the business of the committee or the sub-committee, and also whenever called upon by the Market Committee to do so;

(vii) exercise supervision and control over the acts of all officers and servants of the committee;

(viii) collect fees and other money leviable by or due to the Market Committee ;

(ix) be responsible for all moneys credited to or received on behalf of the Market Committee;

(x) make disbursements of all moneys lawfully payable by the Market Committee ;

(xi) report to the Chairman and Director or Managing Director as soon as possible in respect of fraud, embezzlement, theft or loss of Market Committee fund 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 Chief Executive Officer shall be appointed by the Market Committee from the panel maintained by the Director/ Board. The Director/ Board shall draw upon such panel of the candidates which may include professionals from open market to be appointed as Chief Executive Officers as may be prescribed. Director/ Managing Director shall have powers to appoint Chief Executive Officer from the services of the State Govt./Board and such appointments shall be binding on the Market Committee .

Appointment of staff by the market committee

37. (1) 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/ Managing Director.
- (2) The Market Committee may make bye-laws for regulating the appointment, pay, leave, leave allowances, pensions, gratuities, contribution to provident fund and other conditions of service of officers and servants appointed under sub-section (1) and for providing for the delegation of powers , duties and functions to them.
- (3) Notwithstanding anything contained in this Act or any rules or bye-laws made thereunder, the Director/Managing Director may, subject to the conditions specified in sub-section (4) , transfer on deputation any officer or servant of any Market Committee carrying a maximum scale of pay as prescribed to any other Market Committee of the Revenue Division and it shall not be necessary for the Director/ Managing Director to consult either the Market Committee or the officer or servant concerned before passing an order of transfer on deputation under this sub-section.
- (4) The officer or servant concerned transferred under sub-section (3) shall,-
- (a) have his lien on the post held in the parent Market Committee ;
- (b) not be put to disadvantageous position in respect of pay and allowances which he would have been entitled to, had he continued in the parent Market Committee ;
- (c) be entitled to deputation allowance at such rate as the Director/Managing Director may by general or special order, specify; and
- (d) be governed by such other terms and conditions including disciplinary control as the Director/Managing Director may, by general or special orders, specify.

CHAPTER - VII

Contract Farming

Procedure and Form of contract farming agreement

38. Contract Farming agreements shall be governed in the manner laid down hereinafter.
- (1) Contract farming Sponsor shall register himself with the Market Committee or with a prescribed officer in such a manner as may be prescribed.
- (2) The Contract Farming Sponsor shall get the contract farming agreement recorded with the officer prescribed in this behalf. The contract farming agreement shall be in such form containing such particulars and terms and conditions as may be prescribed.

Notwithstanding anything contained in contract farming agreement, no title, rights, ownership or possession shall be transferred or alienated or vest in the contract farming sponsor or his successor or his agent as a consequence arising out of the contract farming agreement.

Disputes arising out of contract farming agreement may be referred to an authority prescribed in this behalf for settlement. The prescribed authority shall resolve the dispute in a summary manner within thirty days after giving the parties a reasonable opportunity of being heard, in the manner prescribed.

The party aggrieved by the decision of the prescribed authority under sub-section (3) may prefer an appeal to an Appellant Authority within thirty days from the date of decision. The Appellant Authority shall dispose off the appeal within thirty days after giving the parties a reasonable opportunity of being heard and the decision of the Appellant Authority shall be final.

The decision by the authority under sub section (3) and decision in appeal under sub section (4) shall have force of the decree of the civil court and shall be enforceable as such and decretal amount shall be recovered as arrears of land revenue.

Disputes relating to and arising out of contract farming agreement shall not be called in question in any court of law

than otherwise provided herein above.

The agricultural produce covered under the Contract Farming agreement may be sold to the Contract Farming Sponsor outside the market yard and in such a case, no market fees will be leviable.

CHAPTER VIII

REGULATION OF TRADING

Regulation of Marketing of notified agricultural produce.

39. (1) No person shall, except in accordance with the provisions of this Act and the Rules and Bye-laws made there under ;
- (i) use any place in the market area for the marketing of notified agricultural produce : or
- (ii) operate in the market area as a market functionary.
- (2) Nothing in the sub-section (1) shall apply to the following sale or purchase of such agricultural produce -
- (i) whereof the sale is made by the producer himself to any person for his domestic consumption in quantity upto four quintals :
- (ii) which is brought for sale by head load :
- Provided that the State Government by notification may withdraw this exemption specifying the reasons therein in respect of such market area as is specified in the notification .
- (iii) purchase or sale of which is made by a petty trader:
- (iv) purchase of which is made by an authorized fair price shop dealer from the Food Corporation of India, the "The State Commodities Trading Corporation" or any other agency or institution authorized by the State Government for distribution of essential commodities through the public distribution system.
- (v) the transfer of such agricultural produce to a cooperative society for the purpose of securing an advance there from .

Sale of notified agricultural produce in markets

40. (1) All notified agricultural produce shall ordinarily be sold in the market yards/ sub market yards or in the private yards of the licence holder, subject to the provisions of sub-section (2) .
- Provided that the notified agricultural produce may be sold at other places also to a licence holder especially permitted in this behalf under Section 45 this Act
- Provided further that it will not be necessary to bring agricultural produce covered under contract farming to the market yard / sub market yard /private yard and it may be directly sold to contract farming sponsor from farmers' fields.
- (2) Such notified agricultural produce as may be brought by the licensed / registered traders from outside the market area or in the market area in the course of commercial transaction may be brought or sold anywhere in the market area.
- (3) The price of the notified agricultural produce, brought for sale into the market yard, shall be settled by tender bid or open auction or any other transparent system and no deduction shall be made from the agreed price on any account whatsoever from the seller.
- Provided that the price of notified agricultural produce in the private yards shall be settled in the manner prescribed.
- (4) Weighment or measurement or counting of all the notified agricultural produce so purchased shall be done by such a person and such system as is provided in the bye-laws or at any other place specified for the purpose by the Market Committee

Terms and procedure of buying and selling

41. (1) Except in the commercial transaction between two traders, any other person who buys notified agricultural produce in the market area, shall execute an agreement in triplicate in such form , as may be prescribed in favour of the seller. One copy of the agreement shall be kept by the buyer , one copy shall be supplied to the seller and the remaining copy shall be kept in the record of Market Committee .
- (2) (a) The price of the notified agricultural produce brought in the market yard, /sub market yard / private yard shall be paid on the same day to the seller in market yard /sub market yard / private yard . Payment of notified agricultural produce purchased , out of such yard / yards, shall also be made to the seller, if he is not a trader, on the same day there itself.
- (b) In case purchaser does not make payment under clause (a), he shall be liable to make additional payment at the rate of one percent , per day of the total price of the agricultural produce, payable to the seller within five days.
- (c) In case the purchaser does not make payment with additional payment to the seller under clause (a) and (b) above, within five days from the day of such purchase, his licence / registration shall be deemed to have been cancelled on the sixth day and he shall not be registered or granted any licence or permitted to operate under this Act for a period of one year from the date of such cancellation.
- (3) No wholesale transaction of notified agricultural produce shall be entered directly by licensed/ registered traders with producers of such produce except in the market yard/ sub market yard / private yard or in such place in accordance with the provisions in the bye-laws.

Provided that agricultural produce , produced under contract farming , may be bought directly by contract farming

buyer anywhere.

(4) The Commission agent shall recover his commission only from his principal trader at such rates as may be specified in the bye-laws including all expenses as may be incurred by him in storage of the produce and other services rendered by him .

(5) Every commission agent shall be liable -

(a) to keep the goods of his principal in safe custody without any charge other than the commission payable to him, and

(b) to pay the principal, as soon as goods are sold, the price thereof irrespective of whether he has and has not received the price from the buyer of such goods .

**Power to levy market fees
(Single point levy)**

42. (1) Every Market Committee shall levy market fee-

(i) on the sale or purchase of notified agricultural produce , whether brought from within the State or from outside the State, into the market area: and

(ii) on the notified agricultural produce whether brought from within the State or from outside the State, into the market area for processing :

at such rates as may be fixed by the State Government from time to time subject to minimum rate of fifty paise and a maximum of two rupees for every one hundred rupees of the price in the manner prescribed.

(2) (i) Market fee specified in sub section (1) shall not be levied for the second time in any market area of the State, provided that market fee has already been paid on that agricultural produce in any market of the State and the information in this context has been furnished, as prescribed , by the concerned person that the payment of market fee has already been made in other market.

(ii) Market fee shall not be levied more than once in any market area in case the agricultural produce is being resold in the process of commercial transaction between traders or to consumers, provided that the information, as prescribed has been furnished by the concerned person that the payment of due market fee has already been made on it.

(3) On the agricultural produce brought in the market area for commercial transaction or for processing, if the permit issued under Section 43 has not been submitted, the market fee shall be deposited by the buyer or processor, as the case may be, in the office of the Market Committee, within fourteen days: but before sale or resale or processing or export outside the market area .

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

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

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

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

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

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

**Permission for transportation of
notified agricultural pro**

43. (1) Any notified agricultural produce shall be removed out of the market area only in the manner and in accordance with the permit issued in such form , as is prescribed by the Managing Director or Director, and not otherwise.

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

Provided also that the producer of the agricultural produce himself may take the agricultural produce from one place to another without permit as is prescribed by the Managing Director/ Director.

(2) Any agricultural produce, shall be transported in the market area under commercial transactions as is prescribed by the Managing Director/ Director.

Registration of Functionaries

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

Provided further that any person may buy agricultural produce in the market yard / sub market yard on day to day basis even without getting registration in manner prescribed by the State Government

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

- (2) Every such application shall be accompanied with such fee as the State Govt./Director/ Managing Director may prescribe.
- (3) The Market Committee may register or renew the registration or refuse to register or renew the registration on the basis of one or more of the following reasons :
 - (i)The applicant is a minor or not bonafide;
 - (ii)The applicant has been declared defaulter under the Act or rules made there under and bye-laws.
 - (iii)The applicant has been found guilty under this Act.
- (4) (i) The applications received under sub-section (1) shall be disposed off by the Market Committee as required in sub section (3) in four weeks: but if the Market Committee fails to dispose off applications in four weeks, then -
 - (a) the applicant shall remind in writing the Market Committee, in respect of his application,
 - (b)moreover, the applicant shall also inform in writing to the authority prescribed by the Managing Director/ Director in this regard.
 - (ii) On expiry of period of two weeks after submitting the reminder if the application is not disposed off, it shall be deemed that the registration or its renewal , as the case may be, has been granted.
 - (iii)The prescribed authority on the basis of information received by him and after expiry of time of two weeks , shall only confirm that application for registration /renewal was submitted to the Market Committee and due action has not been taken by the Market Committee for disposal of the same then he shall issue a certificate under clause (ii) of sub section (4) regarding grant of deemed registration or its deemed renewal within two weeks time.
- (5) All the registrations granted and renewed under this section shall be subject to the provisions of this Act, rules & bye-laws made thereunder.
- (6) No commission agent shall Act in any transaction between the agriculturist - seller or trader - purchaser , on behalf of an agriculturist-seller, nor shall he deduct any amount towards commission from the sale proceeds payable to the agriculturist-seller.

Establishment of Private yards, 45.
& direct purchase of
agricultural produce from
agriculturist (Direct purchasing
from Producer)

The Director/Managing Director/ Prescribed authority may grant licence to purchase agricultural produce by establishing private yard or direct from agriculturist, in one or more market area for

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

Establishment of
Consumer/Farmer Market
(Direct sale by the producer)

46. (1) Consumer/Farmer market may be established by developing infrastructure as prescribed, by any person in any market area. At such place, producer of agricultural produce himself may, as prescribed, sell his produce directly to the consumer.

Provided that the consumer may not purchase more than such quantity of a commodity at a time in the consumer market as may be prescribed.
- (2) Market service charge shall be collected on sale of agriculture produce by the seller and will be remitted to the proprietor of the consumer market.
- (3) Save as other wise provided in this Act no market fee shall be leviable on the transactions under taken in the consumer/farmers market.
- (4) Licence for establishment of consumer/farmer market shall be granted by the State Govt./ Director/Managing Director.

Grant/ Renewal of license of
Private yard, Consumer
/Farmer market and Weighman

47. (1) Any person who, under Section 45 desires to purchase notified agricultural produce direct from the agriculturists or wishes to establish a private yard or under section 46 desires to establish consumer / farmer market in one or more than one market area, shall apply to the Director/Managing Director for grant or renewal of license , as the case may be , in the manner and for the period , as may be prescribed by the State Government.
- (2) Along with every such application for licence, fee prescribed, by Managing Director, shall be deposited.
- (3) Application received under sub section (1) for grant or renewal of licence may be accepted or rejected for reasons recorded in writing by the authority prescribed by the State Government, as the case may be provided
 - (i) if the Market Committee dues are outstanding against the applicant , the licence shall not be granted/renewed
 - (ii) the applicant is a minor or not bonafide;
 - (iii) the applicant has been declared defaulter under the Act and rules and bye-law made thereunder;
 - (iv) the applicant having been declared guilty in any criminal case and convicted by imprisonment .
 - (v) Any other reasons.

- (4) All the licences granted /renewed under this section shall be subject to provisions of this Act, rules or bye-laws made there under .

Power to cancel or suspend licence/ registration

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

(a)if the licence or registration has been obtained through willful misrepresentation or fraud : or

(b)if the holder of the license or registration or any servant or anyone acting on his behalf with his (license/registration holder's) expressed or implied permission, commits a breach of any of the terms or conditions of licence /registration ;

(c)if the holder of the licence/ registration in combination with other licence /registration holder commits any Act or abstains from carrying on his normal business in the market area with the intention of willfully obstructing , suspending or stopping the marketing of notified agricultural produce in the market yard / sub market yard and in consequence whereof the marketing of any notified agricultural produce has been obstructed , suspended or stopped;

(d)if the holder of the licence /registration has become an insolvent ;

(e)if the holder of the licence /registration incurs any disqualification , as may be prescribed; or

(f)if the holder of the licence/registration is convicted of any offence under this Act then within one year of the conviction if the conviction is for the first time and within three years for subsequent conviction.

- (2) Subject to the provisions of sub section (4) the Chairman or Chief Executive Officer may, after communicating the reasons in writing to the licence /registration holder, suspend a licence / registration for the period not exceeding one month on any reason for which the Market Committee may suspend a license /registration under sub section (1)

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

- (3) Notwithstanding anything contained in sub section (1) , but subject to the provisions of sub section (4), the Director/Managing Director may, for the reasons to be communicated in writing to the licence / registration holder, by order suspend or cancel his/its licence /registration 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 /registration shall be suspended or cancelled under this section without giving a reasonable opportunity to its holder to show cause against such suspension or cancellation.

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

Appeal

49. (1) Any person aggrieved by an order of the Chief Executive Officer or the Chairman of Market Committee or the Director/Managing Director, passed under section 44, 47 or section 48, as the case may be, prefer an appeal

(a) to the Market Committee, where such order is passed by the Chairman/Chief Executive Officer, within seven days of receipt of the order ;

(b)to the Director/Managing Director, where such order is passed by the Market Committee, within thirty days of receipt of the order ; and

(c)to the State Government, where such order is passed by the Director/Managing Director, within thirty days of receipt of the order ; in such manner , as may be prescribed.

- (2) The Appellate Authority, if it considers necessary to do so, grant a stay of the order appealed against for such period as it may deem fit .

The order passed by the Chairman, Market Committee and the Director/Managing Director shall, subject to the order in the appeal under this section, be final and shall not be called in question in any court of law.

Redressal of dispute between Private market or Consumer market and Market Committee

50. (i) Dispute between the Private market or Consumer market and Market Committee, shall be referred to the Director or Managing Director or his representative, or any other officer authorised by the State Government in this regard. The dispute shall be resolved after giving both parties a reasonable opportunity of being heard, in the manner prescribed.

(ii) The decision given by the authority under sub-section (i) above shall be final and shall not be called in question in any court of law.

Prohibition of trade allowances other than those prescribed under this Act.

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

Power to order production of account and entry, inspection and seizure

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

addition of such agricultural produce in his possession and offices, establishment, godowns, vessels or vehicles of such persons shall be kept open for inspection at all reasonable time by such officers and servants of the State Government, Board or Market Committee , as may be authorized, by the State Government in this behalf.

- (3) If any such officer or servant has reasons to suspect that any person is attempting to evade the payment of any market fee due from him under section 42 or that any person has purchased, sold, processed or value added any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws in force in the market areas, he may by communicating in writing to such person, seize such accounts, registers or documents of such a person, as may be necessary, and shall grant a receipt for the same and shall retain the same only so long as may be necessary for examination thereof or for a prosecution.
- (4) For the purposes of sub section (2) or sub section (3) such officer or servant may enter or search any place of business, warehouse, office, establishment, godown, vessel or vehicle where such officer or servant has reason to believe that such person keeps or for the time being has kept accounts, registers or documents of his business, or stock of notified agricultural produce relating to this business.
- (5) The provisions of section 100(4) to (8) of the Code of Criminal Procedure, 1973, shall , so far as may be, apply to a search under sub section (4).
- (6) Where any books of accounts or other documents are seized from any place and there are such entries therein making reference to quantity, quotations, rates, receipts or payment of money or sale or purchase of goods, such books of accounts or other documents shall be admitted in evidence without witness having to appear to prove the same, and such entries shall be prima facie evidence of matters , transactions and accounts purported to have been recorded therein.

Submission of annual account by licensee/Registered functionaries and assessment of market fee.

53. (1) Every trader, processor, proprietor of a private yard, proprietor of consumer/farmer market or commission agent, carrying on business of notified agricultural produce shall, before the 30th June, every year submit to the Chief Executive Officer a statement of transaction undertaken by or through him during the previous financial year ending on the 31st March, in the prescribed manner
- (2) The Chief Executive Officer shall accept or reject the statement submitted to him under sub section (1) after necessary examination and verification on the basis of information duly available in the Market Committee and shall assess the balance amount payable by the functionary and levy the assessed amount.
- (3) Any person aggrieved by the proceedings of the Chief Executive Officer, may within thirty days from the date of communication of notice to him, appeal to the Market Committee .
- (4) Any officer authorized by the State Government or the Board may, on his own motion or on application made to the State Government start process of re-verification of the statement, verified by the Chief Executive Officer, within two years of the date of verification and for this purpose such officer shall exercise the powers under section 52.
- (5) The re-verification made by the officer authorized by the State Government or the Board , shall be final.

Assessment of market fee on his own motion by the Chief Executive Officer, payable to Market Committee by licenced/Registered functionaries

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

Power to stop vehicles and inspect store

55. (1) At any time when so required , -
- (i)by any officer or servant of the Board or any officer or servant of the Government, empowered by the Board or the Collector in this behalf in any market area, or
- (ii)by any officer or servant of the Market Committee empowered by the Market Committee in this behalf in the market area concerned , the driver or any other person in charge of the vehicle, vessel or other conveyance shall stop the vehicle, as the case may be, and keep it stationary, as long as may reasonably be necessary, and allow such person to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to notified agricultural produce carried, and give his name , address and name and address of the owner of the vehicle, vessel or other conveyance and name and address of the owner of the notified agricultural produce carried in such vehicle, vessel or other conveyance.
- (2) Persons empowered under sub section (1) shall have power to seize any notified agricultural produce brought into or taken out or proposed to be taken out of the market area in any vehicle, vessel or other conveyance, if such person has reason to believe that any fee or other amount due under this Act or the value payable to the seller in respect of such produce has not been paid.
- (3) If any person empowered under sub section (1) has reason to suspect that any person is attempting to evade the payment of any market fee due from him under section 42 or that any person has purchased or stored any notified agricultural produce in contravention of any of the provisions of this Act or the Rules or the Bye-laws in force in the market area , he may enter or search any place of business, warehouse , office , establishment or godown where the person empowered under sub section (1) has reason to believe that such person keeps or has for the time being kept stock of notified agricultural produce and may seize the stored agricultural produce and such seized notified agricultural produce may be confiscated in favour of the Market Committee as prescribed for this purpose.

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

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

Power to grant exemption from market fee

56. (1) The State Government may, by notification and subject to such conditions and restrictions, if any, as may be specified therein exempt in whole or in part any agricultural produce brought for sale or bought or sold in the market area specified in such notification, from the payment of market fee for such period as may be specified therein;

Any notification issued under this section may be rescinded before the expiry of the period for which it was to have remained in force, and on such rescission such notification shall cease to be in force.

CHAPTER-IX

Budget & Market Committee Fund

- Preparation and sanction of budget.
57. (1) Every Market Committee shall prepare and pass the budget of its income and expenditure for the ensuing year in the prescribed form and shall submit it to the Director/Managing Director for sanction before the prescribed date every year. The Director/Managing Director shall sanction the budget with Or without modification within two months from the date of receipt thereof. If the budget is not returned by the Director/Managing Director within two months, it shall be presumed to have been sanctioned.
- (2) The Market Committee may sanction and cause to undertake execution of construction works out of its fund other than the permanent fund referred to in sub-section (6) on the basis of the plans and designs approved by the Market Committee, in such manner as may be prescribed by the Board.
- No expenditure except payment of pension will be made out of pension fund.
- (3) No expenditure shall be incurred by a Market Committee on any item if there is no provision in the sanctioned budget thereof unless it can be met by re-appropriation from saving under any other head. The sanction for re-appropriation may be obtained from the Director/Managing Director provided that in case of re-appropriation from minor heads under one major head, sanction for re-appropriation will not be required.
- (4) A Market Committee at any time during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and sanction in the same manner as if it were an original budget.
- (5) The Market Committee shall make provision in its budget for crediting the amount into the permanent fund at the rate of twenty percent of its gross receipt comprising of license fee and market fee and to the pension fund as prescribed from time to time by the Director/Managing Director. No expenditure from the permanent fund shall be incurred except with the prior approval or as per direction given by the Director/ Managing Director. No expenditure from this fund or from amount as provided under sub section (2) of section 58 shall be proposed in the budget referred to in sub section(1).
- (6) The Director/Managing Director/Board while according sanction for construction work may at his discretion, direct that the execution of the works shall be entrusted to the Public Works Department of the State Government or Marketing Board or any other agency authorized by the State Government for this purpose.
- Market Committee fund
58. (1) Save as provided in sub-section (2) all moneys received by a Market Committee shall be paid into a fund to be called "The Market Committee Fund" and all expenditure incurred by the Market Committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the Market Committee after such expenditure has been met, shall be invested in such manner as may be prescribed.
- (2) Any money received by the Market Committee by way of arbitration fee or as security for costs in arbitration proceedings relating to disputes or any money received by the committee by way of security deposit, contribution to provident fund or for payment in respect of any notified agricultural produce, or charges payable to Weighmen, hamma and other functionaries and such other money received by the Market Committee may be provided in the rules or bye-laws shall not form part of Market Committee fund, and shall be kept in such manner as may be prescribed.
- (3) Save as otherwise provided in this Act, the amount to the credit of the Market Committee fund and also other money received by the Market Committee shall be kept in a scheduled co-operative bank or in nationalized bank or in post office saving bank or in any other mode with the approval of the Director/Managing Director.
- Application of Market Committee fund.
59. Subject to the provisions of section 58 the Market Committee in order to discharge functions and duties entrusted to it under this Act, may use the market committee fund. Without prejudice to generality of this provision the market committee fund may be used for the following purposes, namely
- (i)The acquisition of a site or sites for the market
- (ii)The establishment. maintenance and improvement of the market yard.
- (iii)The construction and repairs of building necessary for the purpose of the market yard and for convenience or safety of the persons using the market yard;
- (iv)The maintenance of standard weights and measures;
- (v)The meeting of establishment charges including payment and contribution towards provident fund, pension and gratuity of the officers and servants employed by a Market Committee ;
- Loans and advance to the employment of the Market Committee.
- The payment of interest on the loans that may be raised for the purpose of the market and provisions of sinking fund in respect of such loans;
- (viii)The collection and dissemination of information relating to crop statistics and marketing of agricultural produce;
- (ix)Expenses incurred in auditing the account of the Market Committee;
- (x)Payment of honorarium to Chairman travelling allowance of Chairman, Vice-chairman and other members of the

Market Committee and sitting fees payable to member or attending the meeting,

(xi)Contribution to State Agricultural Marketing Board as prescribed;

(xii)Contribution to any scheme for development of agricultural marketing including transport;

(xiii)To provide facilities like grading, standardization and quality certification services and communication to agriculturist in the market area;

(xiv)To provide for development of agricultural produce in the market area;

(xv)Payment of expenses on elections under this Act.

(xvi)Incurring of all expenses or research, extension and training in marketing of agricultural produce;

(xvii) Prevention, in conjunction with other agencies, state, Central and others of distress sale of agricultural produce;.

Fostering co-operative marketing and assisting cooperative marketing Societies in the procurement and organization of profitable disposal of produce particularly the produce belonging to small and marginal farmers

To create and promote on its own or through public private partnership infrastructure of post harvest handling of Agricultural produce, cold storages, pre-cooling facilities pack houses and all such infrastructure to develop modern market systems.

(xx)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/ Managing Director.

CHAPTER - X

State Agricultural Marketing Board

Constitution Functions and Powers

| | | |
|---|-----|---|
| Establishment of the State Agricultural Marketing Board | 60. | The State Government may, for coordinating the activities of Markets and for development, promotion and regulation of agricultural marketing exercising such other powers as are conferred or entrusted by or under this Act, establish and constitute a State Agricultural Marketing Board. |
| Incorporation of board | 61. | The Board shall be a body corporate having perpetual succession and common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to lease sale or otherwise transfer any such property and to contract and to do all other things necessary for the purpose for which it is established. |
| Constitution of the state Agricultural Marketing Board. Members of the Board. | 62. | The Board shall consist of a Chairman and such other members as may be appointed by the State Government |
| | 63. | The members of the board shall be appointed by the State Government from amongst the following categories of persons, namely :— 1. Chairman - Their shall be a Chairman of the state agricultural marketing board who will be - (i)Minister in-charge agriculture/ agricultural marketing of the state Ex-officio Or Shall be elected by the Chairmen/ Members of agriculturists of Market Committees as prescribed. 2.(i)Six to ten Members to be nominated from amongst the Chairmen of Market Committees. Or Six to ten agriculturist members elected by the members representing agriculturists or the chairmen amongst them as prescribed. 3. Other ex-officio members will be as follows : (i)Agriculture production commissioner/ Agriculture Commissioner (ii)Secretary Agriculture Department/ Secretary Cooperation and Marketing department or his nominee not below the rank of Deputy Secretary, in-charge agricultural marketing. (iii)Agricultural marketing advisor to the govt. of India or his nominee. (iv)Representative of the National Bank for agriculture and rural development not below the rank of Deputy General Manger. (v)Registrar of Co-operative Societies/ Commissioner for Cooperation . (vi)Director/Managing Director of State Marketing Board. |
| Appointment of Managing Director, officers and | 64. | (1) The Board shall have a Managing Director who shall be appointed by the State Government and he shall be the chief executive officer of the board. |

employees of the Board

- (2) The Managing Director appointed under sub-section (1) shall also function as the ex-officio Secretary of the Board.
- (3) The Board may appoint other officers and employees as may be necessary for the efficient discharge of its duties and functions under the Act.
- (4) The superintendence and control over all the officers and employees of the Board shall vest in the Managing Director.

Term of officer of the non-official members of the board.

65. The term of office of the non official members of the board shall be for five years, however the members may hold the office at the pleasure of the State Government.

The State Government may if it thinks fit remove any member of the Board before the expiry of his term of office.

OR

The State Govt. may on his own motion or on resolution passed by a majority of 2/3rd of the members constituting Marketing Board, remove a Chairman or Vice-chairman or any member of the Marketing Board for misconduct or neglect of or in capacity to perform his duty and on such removal he shall not be selected as a Chairman or Vice-chairman or as a Member for a period of 6 years from the date of such removal. Provided that no order of such removal shall be passed unless the reasonable opportunity is given to the concerned.

Term of official members

66. The tenure of an official member of the board shall come to an end as soon as he ceases to hold the office by virtue of which he was nominated.

In the event of supersession of the Market Committee from where the member/members have been nominated on the Board, the concerned member shall cease to a member on the Board.

Allowance to members of the board

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

Filling of casual vacancy

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

Resignation of Members

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

Disqualification of member of the board

70. No person shall be a member of the Board who,
- (a) is, or at any time has been, adjudged insolvent; or
 - (b) is, or has been convicted of an offence which, in the opinion of the State Government involves moral turpitude; or
 - (c) is of unsound mind and stands so declared by the competent court; or
 - (d) is a Director or a Secretary, Manager or other salaried officer or employee of any company or firm having any contract with the Board or a Market Committee ;or
 - (e) is, or at any time been, found guilty under section 87 or 99;
 - (f) has so abused, in the opinion of the State Government, his position as a member , as to render his continuance on the Board detrimental to the interest of the general public.

Appointment of Sub-committee

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

Superintendence of the Board.

72. The State Government shall exercise superintendent 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.

Functions & Powers of the Board.

73. (1) The Board shall, subject to the provisions of this Act perform the following functions and shall have power to do such thing as may be necessary or expedient or carrying out these functions :
- (i)Coordination of the working of the Market Committees and other affairs thereof including programs undertaken by such Market Committee s for the development of markets and market areas;
 - (ii)Undertake the State level planning of the development of Agricultural Produce Markets;
 - (iii) Administer the State Market Development Fund;
 - (iv)Giving direction to Market Committees in general or any Market Committee in particular with a view to ensure improvement thereof;

(v) any other functions specifically entrusted to it by this Act;

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

(2) Without prejudice to the generality of the foregoing provision such functions of the Board shall include :-

(i) To approve Proposals for selection of new sites by the Market Committees for establishment or principal or sub-market yard;

(ii) to approve Proposal for constructing infrastructure 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 State Government;

(vii) to set up separate Marketing Extension cell in the Marketing Board for transfer of marketing technology and extension services, Marketing Board may also make necessary arrangements for propaganda and publicity on matters related to regulated marketing of an agricultural produce and development of marketing;

(viii) to provide facilities for the training of officers and staff of the Market Committees after assessing the demand for trained personnel in Agricultural Marketing at all levels. A training Cell with college/centers for training in Agricultural Marketing for various market functionaries, APMC member and farmers etc., be set up in the State Marketing Board (on Karnataka pattern), with necessary financial and academic support by the Directorate of Marketing and Inspection (Govt. of India) being the National level nodal agency.

(ix) to prepare and adopt budget for the ensuing year;

(x) to grant subventions on loans to Market Committees for the purposes of this Act on such terms and conditions as the Board may determine;

(xi) arrange or organize seminars/ workshops/ exhibitions etc. on subjects related to agricultural marketing;

to do such other things as may be of general interest to Market Committees or considered necessary for the efficient functioning of the Board.

organize and promote grading and standardization of notified agricultural produce and e-trading.

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 State Government or under any law in force for that purpose or of such agricultural produce in the market area as the State Government may from time to time notify;

Marketing Board for the purpose of promotion of grading, standardization and quality certification of agricultural produce in the state shall setup a Agricultural Produce Marketing Standards Bureau to perform such functions & duties as prescribed.

Regulations

74. (1) The Board may with the previous approval of the State Government make regulations, not inconsistent with this Act and rules made thereunder for the administration of the affairs of the Board.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters

(a) summoning and holding of meetings of the Board, the time and date when such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereof;

(b) powers and duties of the officers and other employees of the Board;

(c) salaries and allowances and other conditions of service of officers and other employees of the Board and of officers of the Market Committees;

(d) management of the property of the Board;

(e) execution of contracts and assurances of property on behalf of the Board;

(f) maintenance of accounts and the preparation of balance sheet by the Board;

(g) procedure for carrying out the functions of the Board under this Act;

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

Marketing Development fund.

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

Payments incurred by the board.

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

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| Contribution towards the board. | 77. | Every Market Committee shall, out of its funds, pay to the Board as contribution such percentage of its income derived from licence fees and market fees as may be prescribed by the State Government by notification in the official gazette, to meet the expenses of establishment of the board and expenses incurred in execution of the functions assigned to the Board under this Act. |
| Borrowing by issue of bonds or stocks | 78. | <p>The Board may, for carrying out the provisions of this Act, borrow money from the State Government or may with the previous approval of the State Government,</p> <p>(i) from any other agency; or</p> <p>(ii) issue debentures on the authority of any property vested in it or on the security of a part of its future income accruing to it under this Act, or the rules made there under.</p> |
| Utilization of Marketing Development fund. | 79. | <p>The Market Development Fund shall be utilized by the Board either on its own or through public private partnership for discharge of functions entrusted to the Board under this Act. Without prejudice to generality of this provision, the Market Development Fund may be utilized for the following purposes, namely:</p> <p>(i) Payment of administrative expenditure of the Board;</p> <p>(ii) Payment of travelling and other allowance to the Chairman and Members of the Board;</p> <p>(iii) Payment of legal expenses incurred by the Board;</p> <p>(iv) Granting aid to financially weak Market Committees in the form of loan or grant for development purposes;</p> <p>(v) Propaganda and publicity on matters relating to marketing of Agricultural Produce;</p> <p>(vi) Training of the officers and staff of the Market Committees and Board and also to agriculturists;</p> <p>(vii) Imparting education in marketing of agricultural produce;</p> <p>(viii) Organizing and arranging workshops, seminars, exhibitors etc., on development of marketing;</p> <p>Promotion and construction of infrastructural facilities in the market area;</p> <p>General improvement of the regulation of marketing in the State;</p> <p>(xi) Providing technical assistance to the Market Committees;</p> <p>(xii) For any other purposes, deemed necessary for execution of the functions assigned to the Board under this Act or as directed by the State Government.</p> <p>(xiii) Market survey and Research, grading and standardization, quality certification of agricultural produce and other allied subjects;</p> <p>(xiv) Acquisition or constructions or hiring by lease or otherwise of buildings or land for performing the duties of the Board;</p> <p>(xv) Internal audit of the Board and the Market Committees;</p> <p>(xvi) Development of Haat Bazars for marketing of agricultural production in the market areas;</p> <p>(xvii) Development of quality testing and communication infrastructure relevant to agriculture and allied sectors</p> <p>(xviii) Development of media, cyber and long distance infrastructure relevant to marketing of agricultural and allied commodities.</p> |
| Audit of accounts of the board | 80. | <p>(1) The accounts of the Board shall be subject to audit under the State Local Fund Audit Act or by a certified Chartered Accountant.</p> <p>(2) The Board may make arrangement for internal audit of accounts, as it may deem fit:</p> <p>(3) The annual accounts and balance sheet of the Board shall be prepared by the Managing Director and all moneys accruing to or received by the Board from whatever source and all amounts disbursed or paid shall be entered in the accounts.</p> <p>(4) At the time of audit the Managing Director shall cause to be produced all accounts, registers, documents and other relevant papers which may be called for by the audit officer for the purposes of the audit. Any explanation called for by such officer for the removal of any discrepancy shall be immediately furnished to him.</p> <p>(5) The accounts when audited shall be printed. The copies of accounts and audit report with comments thereon shall be placed before the Board.</p> <p>(6) All moneys received into the 'The State Marketing Development Fund' shall be deposited in a co-operative Bank or if such bank does not exist at the headquarter of the Board in Post Office Saving Bank or with the permission of Director/Managing Director in Scheduled Bank.</p> |
| .Delegation of powers | 81. | (i) Subject to the provisions of this Act, the Board may by general or 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 the Act, as it may deem fit.

(ii)Chairman or Secretary of the Board may delegate his power under this Act to any officer of the Board.

Supervision and control of the
Chairman/ Chief Executive

82.

(i) Chairman of the Board shall preside over the meeting

(ii)Subject to the 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.

Functions & Powers of the
Managing Director

83.

The Managing Director shall 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 executions 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 s either from their own funds or loans and or grants provided by the Board or any other agencies and take corrective measures,

report such acts either of the Market Committee s or of the Board which are contrary to the provisions laid down under this Act or rules and bye-laws made thereof to the Government ;

take such steps as deemed necessary for effective discharge of the functions of the Board.

Conduct of business of the
Board.

84.

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

(2) save as otherwise provided in sub-section (1) the provisions of chapter IV shall mutatis 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/Managing Director and all other orders and other instruments issued by the Board shall be authenticated by the signature of the Chairman, Member-Secretary/ Managing Director or such other officer of the Board as may be authorized in. this behalf by regulation.

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

Power and functions of the
Director of Marketing

85.

(1) Subject to the provisions of this Act, the Director of Marketing/ Managing Director may perform such functions other than those prescribed for the Board under this Act., which would enable proper execution of the provisions of this Act. The State Govt. may delegate any or all the powers vested in it under this Act, Rules to Director/ Managing Director

(2) In particular and without prejudice to the generality of the provisions of the Section 89, the functions of the Director of Marketing may include

Supervision on the Market Committees for effective execution of provisions of the Act relating to transaction of agricultural commodities taking place on the market yard;

Launch prosecution for contravening provision to the Act and rules made thereof;

(iii)Suggest amendments to the Act, and rules framed thereof for effective execution of the objectives of the Act;

(iv) Approve bye-laws framed by the Market Committee under this Act and rules formulate thereof.

(v)Conduct audit of 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 posts of officers and staff of the Market Committee;

(ix)Appointment and transfer of the members of the State Agricultural Marketing Services and act as the cadre controlling authority for the personnel of the State Agricultural Marketing Services;

(x)Take steps for timely and proper conduct of the elections of the Market Committee, and the Chairman and Vice-

chairman of Market Committees;

(xi) Acceptance of resignation of the Chairman of the Market Committee

(xii) Prefer an appeal from any person aggrieved by a order of the Market Committee ;

(xiii) Approval of the resolution passed by Market Committee;

(xiv) Removal of Chairman/Vice-chairman or member/ members of the Market Committee;

(xv) Inspect or cause to be inspected accounts and offices of the Market Committee

Powers of Chairman of Board. 86. The Chairman of the Board shall exercise such powers as may be prescribed.

CHAPTER-XI

Penalty

- Penalty for contravention of act, rules and by laws.** 87. Any person who contravenes any provision of this 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 41, he shall be liable to be punished with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after the first conviction.
- Recovery of market dues** 88. 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 over to the Market Committee costs of the prosecution
- Cognizance of offences** 89. (1) No court shall take cognizance of any offence punishable under this Act or any rule or any bye-laws made there under except on the complaint made by the Collector or the Chairman, Vice-Chairman, Chief Executive Officer of the Market Committee or of any person duly authorized by the Market Committee in this behalf.

CHAPTER-XII

Control

- Inspection of Markets and Inquiry into the affairs of Market Committee** 90. (1) The Director/Managing Director may :-
- (a) inspect or cause to be inspected the account and offices of Market Committee ;
 - (b) hold enquiry into the affairs of a Market Committee
 - (c) call from a Market Committee return, statement, accounts or reports which he may think fit to require such committee to furnish;
 - (d) require a. Market Committee to take into consideration;
 - (i) any objection on the ground of illegality, inexpediency or impropriety which appears to him to exist. to the doing of anything which about to be done or is being done by or on behalf of such committee; or
 - (ii) any information he is able to furnish and which appears, to him to necessitate the doing of a certain thing by such committee;
 - (e) direct that anything which is about to be done or is being done should not be done, pending consideration of the reply, and anything which should be done but is not being done should be done within such time as he may direct.
- (2) When the affairs of a Market Committee are investigated under this section or the proceedings of any Market Committee are examined by the Director under section 97, the Chairman, Vice-Chairman, Secretary and all other officers and servants and members of such committee shall furnish such information in their possession in regard to the affairs or proceedings of the Market Committee as the Director, or the officers authorized as the case may be, may require.
- (3) An officer investigating the affairs of a Market Committee under sub-section (1) or the State Government examining the proceeding of any Market Committee under section 98 shall have the power to summon and enforce the attendance of officers or members of the Market Committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1973.

Where the Director/Managing Director has reason to believe that the books and records of a Market Committee are likely to be tampered with or destroyed or the funds or property of a Market Committee are likely to be misappropriated or misapplied, the Director/Managing Director may issue order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the Market Committee and the officer or officers of the Market Committee responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.

- Powers to remove a member of the Market Committee** 91. (1) The Director may remove a member, Chairman or Vice-chairman of the Committee where it is of the opinion that he :-

(a)has been guilty for misconduct or gross negligence of duty as members, Chairman, or Vice-Chairman;

(b)ceases to hold the qualifications necessary for his being a member, Chairman or Vice-Chairman.

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.

The Director/ Managing Director may suspend any member or Chairman or Vice-chairman of a Market Committee, who has been served with the notice under sub-section (1) or sub-section (2) as the case may be, and against whom any complaints have been received or who commits irregularities after the service of such notice, for period from the date of receipt of complaint or the date of noticing of irregularities by Director/Managing Director till the final decision is taken in his case.

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| Supersession of the Market Committee | 92. | <p>Where the Director/Managing Director is of the opinion that a Market Committee has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the Gazette, supersede the Market Committee .</p> <p>Provided that no order of supersession shall be passed unless the Director/Managing Director has afforded reasonable opportunity to the Market Committee of submitting a written explanation in respect of the allegations against it.</p> |
| Consequence of super - session | 93. | <p>Upon publication of the notification superseding a Market Committee under section 92, the following consequences shall ensue :-</p> <p>(i)all the members including the Chairman, Vice-chairman of the Market Committee shall, as from the date of publication of the notification, be deemed to have vacated their offices;</p> <p>The State Government/Director/Managing Director shall direct that steps be taking for constitution of a new Market Committee under section (14) and till such time a new Market Committee under section (14) is constituted as aforesaid, the Director/Managing Director shall make such arrangements for carrying out the functions of the Market Committee as it may deem fit for the period not exceeding six months and may, for that purpose, direct that all the functions, powers and duties of the Market Committee and its Chairman, under this Act, shall be performed, exercised and discharged by such person or authority as the Director/Managing Director may appoint in this behalf and such person or authority shall be deemed to be the Market Committee or Chairman, as the case may be.</p> |
| Supersession of the Board | 94. | <p>Where the State Government is of the opinion that Board has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the Gazette, supersede the State Agricultural Marketing Board.</p> <p>Provided that no order of supersession shall be passed unless the Government has afforded reasonable opportunity to the Board of submitting a written explanation in respect of the allegations against it.</p> |
| Consequence of super - session of Board | 95. | <p>Upon publication of the notification superseding a Board under section 94, the following consequences shall ensue :-</p> <p>(i)all the members including the Chairman, Vice-chairman of the Board shall, as from the date of publication of the notification, be deemed to have vacated their offices;</p> <p>(ii)The State Government shall direct that steps be taken for constitution of a new Board under this Act and till such time a new Board under section 62 is constituted as aforesaid, the State Government shall make such arrangements for carrying out the functions of the Board as it may deem fit. for the period not exceeding six months and may, for that purpose, direct that all the functions, powers and duties of the Board and its Chairman, under this Act, shall be performed, exercised and discharged by such person or authority as the State Government. may appoint in this behalf and such person or authority shall be deemed to be the Board or Chairman, as the case may be.</p> |
| Power of Director or Managing Director to direct Market Committee for amending bylaws. | 96. (1) | <p>If it appears to the Director/Managing Director that it is necessary or expedient in the interest of a market or Market Committee to make any bye-law or to amend any bye-law, he may, by order, require the Market Committee concerned to make the bye-laws or the amendment of the bye-law within such time as he may specify in such order.</p> <p>(2) If the Market Committee fails to make such bye-laws or such amendment of the bye-laws within the time specified, the Director/Managing Director may, after giving the Market Committee a reasonable opportunity of being heard by an order make such bye-law or such amendment of the bye-law and thereupon subject to any order under sub-section 3, such bye-law or such amendment of the bye-law shall be deemed to have been made or amended by the Market Committee in accordance with the provision of this Act or the rules made thereunder and thereupon such bye-law or amendment shall be binding on the Market Committee .</p> <p>(3) An appeal shall lye to the State Government from any order of the Director/Managing Director under sub-section(2) within thirty days from the date of such order and decision of the State Government on such appeal shall be final.</p> |
| Power of the Director to prohibit execution or further execution of resolution passed or order made by the Market Committee. | 97. (1) | <p>The Director/Managing Director may, of its own motion, or on report or complaints received by order prohibit the execution or further execution of a resolution passed or order made by the Committee or its Chairman or any of its officers or servants, if it is of the opinion that such resolution or order is prejudicial to the public interest, or is likely to hinder efficient running of the business in any Market area, principal market yards or sub-market yard or is against the provisions of this Act or the rules or bye-laws made thereunder.</p> <p>(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/the Managing</p> |

Director, take such action which the committee would have been entitled to take if the resolution or order had never been made or passed and which is necessary for preventing the Chairman or any of its officers or servants from doing or continuing to do anything under the resolution or order.

Power to call for proceedings of Market Committee and Managing Director/Director

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

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

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

- (2) The State Govt. , may suspend the execution of the decision taken or order passed by the Market Committee /Director/Managing Director, pending the exercise of its powers under sub-section (1).

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

99. (1) If in the course of enquiry or inspection under section 90 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, Vice-Chairman, member, officer-in-charge of Market Committee, Chief Executive Officer or any other officer or employee of Market Committee or an officer of the State Government has made or directed by assenting or concurring or participating in any affirmative vote or proceeding related thereto, any payment or application of any money or other property belonging to, or under the control of such committee to any purpose contrary to the provisions of this Act or rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property belonging to the Market Committee , the Director/Managing 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 of the date of report of audit, enquiry or inspection as the case may be.

- (2) If on enquiry made under sub-section (1), the Director is satisfied that there are good grounds for an order under this sub-section. he may make an order requiring such person, or in the case of a deceased person, his legal representative who inherits his estate, to repay or restore the money or property and any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent as the Director/ Managing 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 representative.

- (3) Any person aggrieved by an order made under sub-section (2) may, within thirty days from the. date of communication of the order to him, appeal to the State Govt. and the Order of the State Govt. 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 any sum directed to be paid by such Order may be recovered as arrears 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 or any order that may be passed against him under this section;

is. about to dispose of the whole or any part of his property, or is about to remove the whole or any part of his property from the State; he may, unless adequate security is furnished, direct, the conditional attachments of the said property or such part there of as he thinks necessary and such attachment shall have the same effect as it may by a competent Civil Court.

Power of the State Government to amend schedule

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

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

Power of the State Government to give direction

101. (1) The State Government may give directions to the Board and Market Committees.
- (2) The Board and the Market Committees shall be bound to comply with directions issued by the State Government under sub-section (1).

Recovery of sums due to board/market committee.

102. Any sum due to a Market Committee or the board on account of any charge, costs, expenses, fees rent, and any other account under the provision of this Act or any rule or by-laws made thereunder shall be recoverable in the

same manner as arrears of land revenue.

- Chairman, Vice chairman members, officer and servant etc. of market committee & board to be public servants 103. The Chairman, the Vice-Chairman, Member, Secretary, other officers and servants of a Market Committee and the Chairman, Vice-Chairman, the members, the officers and other servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).
- Delegation of power 104. The State Government may delegate to the Board or any officer of the State Government not below the rank of Director any of the powers conferred on it by or under the Act other than the powers to make rules under section 109.
- The Director may delegate any of his powers to any officer of the State Government not below the rank of officer of Class II Cadre.
- Bar to civil suit & Protection to person acting in good faith 105. No suit, prosecution or legal proceedings in respect of anything done in good faith or intended to be done under this Act or rule or bye-laws made thereunder, shall lie against the Director/ Managing Director or officer of the State Government or against the board or any Market Committee or against any officer or servant of the Board or any Market Committee or against any person acting under and in accordance with the directions of the Director/ Managing Director, such officer, or such committee.
- Bar to suit in absence of notice 106. Notwithstanding anything contained in any section of any Act, no suit shall be instituted against the board or any Market Committee, until the expiration of two months next after notice in writing stating the cause of action, name and place of abode of the intending plaintiff, and the relief which he claims has been delivered or left at its office. Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of alleged cause or action.
- Duty to Local authority to give information and assistance 107. It shall be the duty of every Local authority to give all the necessary information in the possession of or under the control of its officers to the Market Committee or its officers authorized in that behalf, relating to the movement of notified agricultural produce into and out of the area of the Local authority, free of any charges.
- It shall also be the duty of every Local authority and its officers and staff concerned with the collection of octroi to give all the possible assistance to any officer of the Market Committee in exercising his powers and discharging his duties under this Act.
- Act not to be invalidated by informality, vacancy etc. 108. No Act done or proceeding taken under this Act by the board, by a Market Committee or a sub-committee appointed by the Board shall be invalidated merely on the ground of
- (a) any vacancy or defect in the constitution of Board or sub-committee; or
 - (b) any defect or irregularity in the appointment of a person acting as a member thereof; or
 - (c) any defect or irregularity in such Act or proceeding, not affecting the substance.

CHAPTER-XIII

Rules and Bye-Laws

- Power to make rule 109. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.
- In particular and without prejudice to the generality of the foregoing power, such rules may provide for-
- (i) other manners of publication of notification under section 3(1);
 - (ii) Fixation of quantity of sale under clause (39) of section (2);
 - (iii) (a) qualifications which the representatives of agriculturists shall possess under section 14(1) (i);
 - (b) qualifications which the representatives of traders shall possess under section 14 (1) (ii)
 - (c) authority which shall conduct 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 deposit and its forfeiture, the election offences, the determination of election disputes and all matters ancillary thereto under section 14 (3).
 - (iv) the powers to be exercised and the duties to be performed by the Market Committee and its Chairman and Vice-Chairman;
 - (v) (a) the procedure and quorum at a meeting of Market Committee and
 - (b) the form in which account of purchases and processing of agricultural produce to be maintained.
 - (vi) the management of market, the procedure for recovery of market fees, fine for evasion of market fees and manner for assessment of market fees in default of furnishing return
 - (vii) classification of market functionaries for grant of licences, regulation of licenses under this Act, the persons required to take out licence, the forms in which and terms and conditions subject to which such licences shall be

issued or renewed;

(viii) the provisions for the persons by which and the forms in which copies of documents and entries in the books of the Market Committee may be certified and the charge to be levied for the supply of such copies;

(ix) the kind and description of weights and measures and the weighing and measuring instruments which shall be used in the transactions in the notified agricultural produce in a market yard;

(x) the periodical inspection of all weights and measures and the weighing and measuring instruments in use in a market yard;

(xi) the trade allowance which may be made or received by any person in any transaction in the notified agricultural produce in a market yard;

(xii) facilities for the settlement of any dispute between a buyer and seller of notified agricultural produce or their agents including disputes regarding the quality or weight of the articles, payment in respect of the price of goods sold and the allowances for wrapping, containers, dirt or impurities or deductions for any cause by mediation, arbitration or otherwise;

(xiii) the provision of accommodation for storing any agricultural produce brought into the market;

(xiv) 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;

(xv) the form in which the accounts of a Market Committee shall be kept, the audit and publication of such audit and the inspection of audit memoranda of the account and supply of such memoranda;

(xvi) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a Market Committee ;..

(xvii) the time during which and the manner in which a trader or commission agent shall furnish such returns to a Market Committee as may be required by it;

(xviii) the regulation of advance, if any given to agriculturists by commission agents or traders;

(xix) the grading and Standardization of the agricultural produce and e-trading;

(xx) the keeping of records of arrivals and prices of agricultural produce;

(xxi) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in a market;

(xxii) the recovery and disposal of fees leviable by or under this Act;

(xxiii) compounding of offences and fixing compensation thereof under this Act or rules or bye-laws made thereunder;

(xxiv) manner of constitution of State Agricultural Marketing services;

(xxv) recruitment, qualification, appointment, promotion, scale of pay, leave, leave allowance, acting allowance, loans, pension, gratuity, annuity, compassionate fund, dismissal, removal, conduct, departmental punishment, appeals and other service conditions of the members of the State Agricultural Marketing service;

(xxvi) limit of expenditure which may be incurred in reception of distinguished guests;

(xxvii) limits of honorarium to Chairman, traveling allowances to members and sitting fees payable to members for attending the meetings;

(xxviii) manner of investment of surplus in the Market Committee fund;

(xxix) procedure for framing of bye-laws, their amendments or cancellation and for their previous and final publication;

(xxx) classification of Market Committees on the basis of annual income for all or any of the purposes of this Act;

(xxxi) term of the office of the Chairman, Vice-chairman and members of the Board;

(xxxii) the powers to be exercised by the Chairman and Vice-chairman and the Chief Executive of the Board;

(xxxiii) all matters required to be prescribed by rules under this Act;

(xxxiv) mode of service of notice under this Act;

(xxxv) generally for the guidance of Market Committee .

- (3) In making any rule, the State Government may direct that breach thereof shall be punishable with fine which may extend to two hundred rupees.
- (4) Every rule made under this Act Shall be laid on the table of the Legislative Assembly.

- (i) the regulation of business of the Market Committee;
 - (ii) the condition of trading in a market;
 - (iii) delegation of powers, duties and functions to the officers and servants, appointment; pay, punishment, pensions, gratuities, leave, leave allowances, contributions by them to any provident fund which may be established for the benefit of such officers and servants and other conditions of service;
 - (iv) the delegation of powers, duties and functions to a sub-committee, if any;
 - (v) market functionaries who shall be required to take licence;
 - (vi) enabling and regulating e-trading;
 - (vii) any other matters for which bye-laws are to be made under this Act or it may be necessary to frame bye-laws for effectively implementing 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/ Managing 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 rupee for everyday after first during which the breach is provided to have been persisted in.

CHAPTER-XIV

Repeal and Savings

- Repeal and saving**
111. (1) The _____ State Agricultural Produce Marketing (Regulation) Act _____ are hereby repealed.
- (2) Notwithstanding such repeal—
- (i) The repeal shall not affect the previous operation of any enactment so repealed, and anything done or action taken (including any appointment, delegation or declaration made, notification, under rule, direction or notice issued, bye-laws framed, market area, markets, sub-markets and yards declared, established or notified, licences granted, fees levied and collected, instruments executed, any fund established or constituted) by or under the provisions of any such enactment shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force unless and until superseded by anything done or any action taken under this Act;
 - (ii) unless the State Government otherwise directs, the Market Committee s referred to in clause (1) and the Chairman, Vice-chairman and members thereof shall continue until the expiry of their term under the repealed Act or till a Market Committee is constituted in accordance with the provisions of this Act, whichever is earlier.
- (3) on issue of a direction under clause (ii) of -sub-section (2), the provisions of section shall apply as from the date specified in the direction as if the Market Committee stood dissolved on that date.
- Power to remove difficulty**
112. State Government shall have powers to make suitable order as may be necessary to remove any difficulty arising in implementation of this Act.

Addendum on

Contract Farming Agreement And Its Model Specifications

9th Sept 2003

Contract Farming Agreement and Model Specifications

1. Introduction: Contract farming is an agreement between processing and/ or marketing firms, market intermediaries and the farmers for the production and support of agricultural products under forward agreement, frequently at predetermined prices. The arrangement invariably involves the purchaser in providing a degree of production support to farmers through, for example, the supply of inputs and the provision of technical advise. The basis of such arrangements is a commitment on the part of farmer to provide a specific commodity in quantities and quality standards determined by the purchaser and commitment on the part of the registered market intermediaries to support the farmer's production and to purchase the commodity. Contract farming is thus a means of allocating the distribution risk between processor and grower. The latter assumes risk associated with production while the former assumes the risks of marketing the final produce. For some critics, "contract farming" is just another of the ills associated with economic globalization. On one side, there are a mass of unorganized small-scale farmers, with little bargaining power and few of the resources needed to raise productivity and compete commercially. On the other side are powerful agribusiness entrepreneurs, offering production and supply contracts, which – in exchange for inputs and technical advice – enable it to exploit cheap labour and transfer most risks to the primary producers. Contract farming, the critics say, is essentially an agreement between unequal parties, and more likely to generate debt than development for the small farmer. But this is rarely the case. An FAO guide "*Contract farming: Partnerships for growth*" argues that well- managed contract farming has proven effective in linking small farm sector to sources of extension advice , mechanization, seeds, fertilizer and credit, and to guaranteed and profitable markets for produce. "It is an approach that can contribute to both increased income for farmers and higher profitability for sponsors." When efficiently organized and managed, contract farming reduces risk and uncertainty for both parties and provides the producer the opportunity to add value to his production.

2. Merits of contract farming: The prime advantage for farmers is that the sponsor will normally undertake to purchase all produce grown, within specified quality and quantity parameters, often at pre-determined prices. Contracts can provide farmers with access to a wide range of managerial, technical and extension services that otherwise may be unobtainable. Small-scale farmers are frequently reluctant to adopt new technologies because of the possible risks

and costs involved. In contract farming, private agribusiness will usually offer improved methods and technologies because it has a direct economic interest in improving farmers' production to meet its needs. In many instances, the larger companies provide their own extension support to contracting farmers to ensure production is according to specification. Skills the farmer learns through contract farming may include record keeping, improved methods of applying chemicals and fertilizers and knowledge of the importance of quality and of the demands of export markets. The returns that farmers receive for their crops on the open market depend on prevailing prices and their ability to negotiate with buyers but contract farming can, to a certain extent, overcome this price uncertainty. Frequently, sponsors indicate in advance the prices to be paid and these are specified in the agreement.

Contract farming arrangements can contribute to adding value by a) facilitating the emergence of agro- processing plants which would otherwise not exist if supplies were not forthcoming in an organized manner b) enabling the export of produce from small farmers which otherwise would not be able to access these demanding markets c) encouraging higher quality production and better handling and sorting thus increasing the value of small holder production and d) by enabling producers and processors to achieve economies of scale, thereby lower costs and making them more competitive.

3. Risk Factors in Contract Farming: For farmers, there is the uncertainty involved in growing new, unfamiliar crops and producing for markets that might not always live up to their expectations - or their sponsors' forecasts. Inefficient management can lead to overproduction, and in some cases sponsors "may be tempted to manipulate quality standards in order to reduce purchases". One of the biggest risks for farmers is debt which can be caused by production problems, poor technical advice, significant changes in market conditions, or a company's failure to honour contracts. On the sponsor's side, risks can arise when dealing with farmers who, in turn, may have negotiated use of the land with traditional owners. Before entering into contracts, the sponsor needs to ensure that access to land is secured, at least for the term of the agreement. But a more serious problem is when farmers break the contract and sell their produce in alternative markets, sometimes encouraged by rival sponsors or ruling higher prices in open market.

4. Managing Arrangements: The contract farming system has to be seen as a partnership between agribusiness and farmers. Good service delivery by the sponsor is a precondition for successful contract farming. Sponsors must therefore take responsibility for coordinating production and marketing activities well. Managers must ensure the transparency of all interactions with the farmers and they must ensure that farmers understand both their own obligations and those of the sponsor. Farmers default in contract farming arrangements can be reduced by following interventions:

a) Organizing Farmers' Associations: Peer pressure within the group screens out potential defaulters and can reduce the risk of default. In addition, economies of scale can be realized in the delivery of services, thereby reducing costs. Farmers will also benefit by having a stronger hand in negotiations with companies.

b) Good communication and close monitoring of farmers: Good communications help to foster good company-farmer relations and a sense of trust, which has a positive effect by reducing strategic default. Group members can monitor each other where there is a need to ensure quality and traceability of produce, and to prove due diligence throughout the chain.

c) Range and quality of services offered: The better and broader the range of services offered, the closer the relationship between farmer and the business, and more the farmer stands to lose by breaking the relationship.

5. Types of Contract farming: Contract farming agreements can be classified into three, not mutually exclusive categories: i) market-specification, ii) resource providing, and iii) production management. Market specifications contracts are pre-harvest agreements that bind the firm and grower to a particular set of conditions governing the sale of the crop. These conditions often specify price, quality and timing. Resource providing contracts oblige the processor to supply crop inputs, extension, or credit, in exchange for a marketing agreement. Production management contracts bind the farmer to follow a particular production method or input regime, usually in exchange for a marketing agreement or resource provision. In various combinations, these contract forms permit firms to influence the production technology and respond to missing markets without having to operate their own plantations. Eaton and Shepherd in their book titled 'Contract Farming – Partnership for Growth' (FAO-2001) have presented five organizational models for contract farming.

a) Centralised Model: The sponsor purchases crops from farmers for processing, and markets the product. Quotas are distributed at the beginning of each growing season and quality is tightly controlled. This model is generally associated with tobacco, cotton, sugar cane, bananas, coffee, tea, cocoa and rubber crops.

b) Nucleus estate Model: The sponsor owns and manages a plantation, usually close to a processing plant, and introduces technology and management techniques to farmers (sometimes called "satellite" growers). Mainly used for tree crops, but has also been applied to dairy production.

c) Multipartite Model: Usually involves statutory bodies and private companies jointly participating with farmers. Common in China, where government departments, township committees and foreign companies have entered into contracts with villages and individual farmers.

d) Informal, or individual developed Model: Individual entrepreneurs or small companies make simple, informal production contracts with farmers on a seasonal basis, particularly for fresh vegetables and tropical fruits. Supermarkets frequently purchase fresh produce through individual developers.

e) Intermediary Model: Formal subcontracting of crop production to intermediaries is common in Southeast Asia. In Thailand, large food processing companies purchase crops from individual "collectors" or farmer committees, who make their own informal arrangements with farmers.

6. Specifications of Contract Farming agreements: Contents of a contract farming agreement depends on a number of factors such as the nature of the product, the primary processing required, if any, and the demands of the market in terms of supply reliability. Quality incentives, payment arrangements, the level of control the sponsor wants to have over the production process also influence the nature of the agreement, and the extent to which the parties have capital tied up in the contract. A contract covering, for example, oil palm, tea or sugar, where significant long-term investment is required from all parties, will be different from a contract covering annual crops such as fruits and vegetables for local supermarkets may not be the same as one covering such produce destined for overseas markets, which may have more rigid controls on pesticide use and product quality as well as higher presentation and packaging standards. Although corporate bodies, government agencies and individual developers are of necessity the catalysts of the contract, farmers and their representatives must be given the opportunity to contribute to the drafting of the agreement and assist in the wording of specification in terms farmers can understand. Management must ensure that agreements are fully understood by all farmers. The terms and conditions entered into must be written down for independent examination and copies given to the farmers' representatives. Copies should also be available to relevant government agencies.

The legal framework of the Agreement should comply with the minimum legal requirements of the Indian Contract Act, local practice must be taken into account and arrangements for arbitration must be addressed. Agreements, in the form of a written contract, usually cover the responsibilities and obligations of each party, the manner in which the agreement can be enforced and the remedies to be taken if the contract breaks down. In most cases, agreements are made between the sponsor and the farmer, although in the case of multipartite arrangements, the contracts can be between the sponsor and farmer associations or cooperatives.

The Specifications: Within the broad categories of market-specification, resource-providing, and produce-management contracts, firms must specify terms that include:

a) Marketing: How much of the product will be purchased, when, and at what price for what quality? Must the grower deliver all of his product, a share, or set amount.

b) Inputs and technical assistance: How will inputs and technical assistance be delivered, how much, and at what price and quantity?

- c)Credit: Will the grower receive credit in cash or kind? How much will he receive, at what interest rate? What will be the collateral?
- d)Production management: What technological procedures must the grower follow. How will the grower be monitored ?
- e)Delivery and grading: Who will transport the harvest to the processor and how will quality be graded?
- f)The duration of the contract;
- g)The way in which the price is to be calculated using
 - i) Prices fixed at the beginning of each season
 - ii) Flexible prices based on world or local market prices
 - iii) Spot-market prices
 - iv) Consignment prices, when payment to the farmer is not known until the raw or processed product has been sold, or
 - v) Split pricing, when the farmer receives an agreed base price together with a final price when the sponsor has sold the product
- h)Procedures for paying farmers and reclaiming credit advances;
- i)Arrangements covering insurance;
- j)Registration of Contract Farming Agreement with the notified Govt. Agency and Dispute resolution mechanism.

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CONTENTS OF A MODEL CONTRACT FARMING AGREEMENT

MANDATORY PROVISIONS -

I. Parties To The Agreement

- a)Contract Farming Sponsor – It may be a sole proprietor, a company registered under the Companies Act, 1956, a partnership firm registered under the Partnership firm 1932, a Government Agency, A Cooperative Societies registered under the State Cooperative Societies Act and shall include its administrators, successors, representative and assignee.
- b)Contract Farming Producer/s includes an agriculturist, farmers' associations, self-help groups, authorized tenants and farmers cooperatives societies registered under the State Cooperative Act. The expression shall include the successor, heirs, executors and representatives of the party contracting the agreement.

II. Description of Farm Land Covered by Contract Farming Agreement

- a)Acreage, Location – This would provide land particulars as recorded with the revenue authority of the concerned area.
- b)Facilities available – This would stipulate availability of irrigation, its kind and other specific features reflecting on production.
- c)Nature, tenure, rights etc. of the Contract Farming Producer/s on the land

III. Duration of Agreement

- a)Seasonal
- b)Annual
- c)Long Term (3-5 years)

Explanatory note: The duration of agreements depends on the nature of the crop. Contracts for short-term crops such as table vegetables are normally issued and renegotiated on a seasonal basis, whereas crops such as tea, coffee, sugar cane, and cocoa require long-term contracts that can be amended periodically.

IV. Description of Farm Produce

This would clearly indicate name of the agricultural produce with specific variety or any other characteristic, which the buyer wants the producer to grow on the contracted land identified under clause 2.

V. Quantity Specification of the Farm Produce

This would indicate the quantity of produce in respect of which the agreement is entered into. This could be determined on the following basis:

- a)On volume basis
- b)On Area Basis
- c)Entire Crop
- d)Fixed Quantity

Explanatory note: Quotas are employed in the majority of contracts in order to utilize processing, storage and marketing capacities efficiently; guarantee

markets for all farmers; ensure quality control; and monitor farmer's performance. The allocation and distribution of production quotas will vary according to crop and circumstances. Where there is no alternative market for the crop and farmers have made significant long-term investments in production (tree crops) or processing facilities (e.g. tobacco curing barns), the sponsor must be committed to purchase the entire crop covered by the quota. This obligation, of course, is subject to the crop meeting the agreed quality specifications. The most common and practical method is to allocate quotas on an area basis, with sponsor calculating the total area to be cultivated in relation to the project's processing capacity and their knowledge of each farmer's expected yield. Where there are alternative markets for crops under contract, quite often farmers are tempted to sell outside the contract. Quotas deliberately set at levels lower than the farmers' actual production capacity may enable them to take advantage of high open market prices when they occur. Such an arrangement is likely to apply particularly when the pricing arrangement is for a fixed price rather than a market-based price.

VI. Quality Specifications of Commodity Contracted

a) Quality specifications in terms of size, weight, degree of maturity, packaging, intrinsic quality like juice content, safety requirements, if any

b) Agency to decide quality in case of dispute

c) Consequences of non conformity with quality specifications

I. Rejection

II. Reduction in price

III. Any other

Explanatory note: Contracts should contain quality specifications of produce covered by the agreement and indicate as to whether the produce that does not conform to the agreed criteria can be rejected. It is important that farmers fully understand the reasons for standards. Contract sponsor should demonstrate the grades to farmers at the beginning of each season and explain the rationale for the specifications. Wherever possible, the number of grades should be kept to a minimum and each grade's specifications should be presented in clear terms. Often, however, there may be a need for only one standard, with all produce delivered being required to fall within a particular specification range.

VII. Crop delivery arrangements

a) At Farm gate

b) At Processing Unit

c) At specified Collection centers

d) Transportation arrangements

Explanatory note: Arrangements for collection of products or delivery by the farmers vary widely. Some ventures stipulate that farmers should deliver their harvest to processing plants at given dates; others may include the use of the sponsor's transport to collect harvested crops at centrally located buying points. For contracted fresh vegetables a normal practice is farm gate collection. When the sponsor's transport is used there is normally no cost to the farmer. In the sugar industry, farmers deliver their harvested cane to a central loading point from which it is then transported to the crushing mill, weighed and purchased. Many formal contracts have clauses that outline the obligations of both the farmer and the sponsor regarding delivery and collection respectively. As a routine practice, sponsors and their extension staff should confirm delivery or collection arrangements at the beginning of each season and reconfirm these prior to harvest.

VIII. Pricing arrangements

a) Fixation of Price

b) Payment and Loan/Credit Recovery Procedure

c) Advance Payment

d) Credit in Cash/ Kind (input)

e) Recovery of Bank Loan

f) Payment on Delivery

g) Final Payment

h) Arrangement with Banks

Explanatory note: Pricing and payment arrangements are the most discussed and challenging components of all farming contracts. The choice of which crop pricing structure to use is influenced by whether the crop is for the local or export market, the seasonal nature of production and the degree of competition in the marketing system. The application of transparent pricing formulas is crucial and the drafting of a clear pricing structure and the organization of a practical method of payment encourage confidence and goodwill. There are several ways prices offered to farmers can be calculated. Fixed prices are the most common method. The practice is usually to offer farmers set prices at the beginning of each season. In almost all cases, fixed prices are related to grade specifications. Flexible prices structure applies to prices calculated on a formula related to changing global and local markets. This form of pricing is common in, for example, the sugar industry where the final price to the farmer is known only after the processed sugar has been sold. Under Split pricing system an agreed base price is paid out at the time of purchase or at the end of the harvesting season. The final price is calculated once the sponsor has on-sold the commodity, and depends on the prevailing market price. If the crop is sold in the fresh form the second price can usually be calculated within a month. When the product is processed it may take much longer.

IX. Registration and Dispute Resolution Mechanism

In the majority of cases, it is highly unlikely that a sponsor will take legal action against a small holder for a breach of contract. The costs involved are inclined to be far in excess of the amount claimed, and legal action threatens the relationship between the sponsor and all farmers, not just those against whom action is being taken. Action by a farmer against a sponsor is similarly improbable. As neither side is likely to seek a legal remedy through the courts, it is important that quick and easy ways of resolving disputes are identified in the agreement. A body representing the sponsor, farmers and other interested like Market Committee might be the most appropriate forum, which can act as an arbitrator. For the purpose, appropriate legal provision will have to be made in the law governing the marketing of agricultural produce (APMC Act) to inter-alia provide for compulsory registration of all contract farming agreements and the

procedure for settlement of disputes arising there from.

X. Indemnity in favour of producer

In order to protect producers land and properties it is essential that an indemnity is provided to him. The sponsor in any case shall not have any right whatsoever over the title or possession of the producers land.

OPTIONAL PROVISIONS -

XI. Cultivation /Input Specifications to be followed by the Producer

- a) Land preparation
- b) Nursery
- c) Fertilization
- d) Pest management
- e) Irrigation
- f) Harvesting

Explanatory note: When sponsor provide seeds, fertilizers and agrochemicals, they have the right to expect that those inputs will be used in the correct quantities. They also have the right to expect that farmers follow the recommended cultivation practices. Of particular concern is the possibility that farmers may apply unauthorized or illegal agrochemicals, which can result in toxic residues, with dramatic repercussions for market sales. It is therefore essential to spell out these clearly so that all contracted farmers adhere strictly to the project's input policies. Sponsors and their extension staff must make every effort to explain to farmers why the specifications and input recommendations must be followed.

XII. Insurance arrangements

- a) Price Fluctuations
- b) Pest Epidemic
- c) Natural Calamities
- d) Acts of God
- e) Destruction of Assets
- f) Loan Default
- g) Production Loss
- h) Buyer's Insolvency

Explanatory note: Agricultural investments always involve risk. The five most likely reasons for investment failure are poor crop management, climatic calamities, pest epidemics, market collapse and price fluctuations. The standard agribusiness approach to indemnify against quantity shortfalls is crop insurance. As the farming involved in a contract arrangement becomes technologically more advanced, the range of risks to which it is subject generally becomes more limited. In many cases some of the remaining risks can be managed with the assistance of insurance. Where there are fixed price contracts there is no apparent risk to farmers with regard to payment for their crops. If a market collapses, the sponsor should automatically shoulder the loss. However, if the sponsor becomes bankrupt, farmers could be permanently affected. Where contracts are on a flexible on spot-price basis the stability of farmers' incomes is always at risk. In theory, the proposal of crop and property insurance for farmers in contract farming ventures is appealing. However, a qualified risk analysis has to be made to determinate the economic advantages of insurance against the specific risks applicable to the particular crop. Some authorities classify the four main categories of crop insurance in order of "their comprehensiveness in terms of coverage of risks" as follows:

(i) Acts of Gods: This category encompasses natural disasters such as drought, floods, hail, storms, cyclones, lightning, insect plagues and disease epidemics that are beyond management control.

(ii) Destruction of specified assets. Tractors and farm implements can be insured against damage and theft. Insuring of curing kilns by farmers when growing tobacco under contract is essential. If a contract-farming venture is well established, management can sometimes organize the insurance of non-contractual farm buildings and housing as part of the sponsor's total indemnity policies, reducing the cost of premiums to the grower.

(iii) Loan default: In almost all ventures, sponsors assume the liability of credits advanced by management to the farmer for the contracted crop. It is therefore important that advances do not accumulate into debts that the farmer cannot repay. Sponsors normally allow farmers who cannot repay advances because of climatic or other mitigating factors to extend their loans to the following seasons. Sponsors, of course, do have the option to indemnify their farmer loans against default through their own insurance brokers.

(iv) Production and income loss: Insurance against both production and income loss is expensive and complex. Production loss may be caused by a combination of factors that are difficult to insure against. To determine who is culpable when a crop is destroyed by insects is one example. Was it an "Act of God" or the failure of the farmer to take measures for pest control at the appropriate time, or was it the fault of management for not training and instructing the farmers in pesticide techniques? There are also social risks that could cause crop loss such as theft and animal damage.

XIII. Support Services To Be Provided By Sponsor :

The sponsor of large volume of produce may as part of the agreement provide one or more of the following services:

- a) Coordination of production which includes identifying suitable production areas and forming farmers' groups;
- b) Provision of extension advice on new cultivation/harvesting practices, appropriate use of chemicals, and efficient farm management;
- c) Transfer of Technology leading to higher yield and/or improved quality;

- d) Cropping schedules; and
- e) Training and awareness programmes

XIV. Farmer- Management Forum

- a) Organisation of Farmers' Association
- b) Interaction with Associations

Explanatory note: Intermediary bodies that link management/sponsor and farmers for purposes of negotiation and interaction are necessary for all contracts. By creating farmer-management forums, sponsors can negotiate contracts with farmers either directly or through their representatives. The representatives should meet with management/sponsor periodically, but atleast three times in a season. The first meeting should be at the beginning of season in order to ratify the pricing structure and the season's crop schedules. A second meeting is advisable immediately before harvesting to discuss the crop progress and to confirm buying procedures. A final meeting to review performance at the end of harvest, which may coincide with the final payment to farmers. The farmers management forums include Farmers Associations, Farmers Co-operatives, Farmers Groups or any other organisation of the farmer by whatever name called (to be named in the agreement).

XV. Monitoring Quality and Yields

Each contract farming agreement must incorporate quality control and monitoring system suitable for its particular operation. Sponsor must prioritize monitoring procedures and decide how often they should be carried out, in what locations and who should be inspected and at what locations. Checking product quality can take place before, during and immediately after harvesting as well as at the time farmers grade their own production and when the produce reaches the company's processing or packaging facility.

Model Agreement for Contract Farming

(All clauses of the agreement are subject to the respective explanatory notes given under "contents of a model contract farming agreement")

THIS AGREEMENT is made and entered into at _____ on the _____ day of _____, 2003 between _____ age _____ residing at _____, herein after called the party of the First part (which expression shall unless repugnant to the context or meaning thereof mean and include his heirs, executors, administrators and assigns) of the one part, and M/s. _____ a Pvt./Public Limited Co. incorporated under the provisions of Companies Act-1956 and having its registered office at _____ herein after called the party of the Second part (which expression shall unless repugnant to the context or meaning thereof mean and include its successors and assigns) of the other part.

WHEREAS the party of the First part is the owner/ cultivator of the agricultural land bearing the following particulars.

| Village | Gut No. | Area in Hectare | Tehsil & Dist. | State |
|---------|---------|-----------------|----------------|-------|
|---------|---------|-----------------|----------------|-------|

AND WHEREAS, the party of the Second part is trading in agricultural produce and also providing technical know-how in respect of land preparation, nursery, fertilization, pest management, irrigation, harvesting and alike things.

AND WHEREAS the party of the Second part is interested in the items of the agricultural produce more particularly mentioned in Schedule-I hereto annexed and at the request of the party of the Second part, party of the First part has agreed to cultivate and produce the items of agricultural produce mentioned in the schedule-I hereto annexed.

AND WHEREAS the parties hereto have agreed to reduce in writing the terms and conditions in the manner hereinafter appearing.

NOW, THESE PRESENCE WITNESSTH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS :

Clause 1 :

The party of the First part agrees to cultivate and produce and deliver to the party of the Second part and the party of the Second part agrees to buy from the party of the first part the items of the agricultural produces particulars of the items, quality, quantity and price of the items are more particularly mentioned in the schedule I hereto annexed.

Clause 2 :

The agricultural produce particulars of which are mentioned in the schedule-I hereto will be supplied by the party of the First part to the party of the Second part within the period of _____ months/years from the date hereof.

OR

It is expressly agreed between the parties hereto that this agreement is for agricultural produce particulars of which are described in schedule-I hereto and for a period of _____ months/years and after the expiration of said period, this agreement will automatically come to an end.

Clause 3 :

The party of the First part agrees to cultivate, produce and supply quantity mentioned in the schedule-I hereto annexed to the party of the Second part.

Clause 4 :

The party of the First part agrees to supply the quantity contracted according to the quality specifications stipulated in Schedule I. If the agricultural produce is not as per the agreed quality standards, the party of the Second part will be entitled to refuse to take the delivery of the agricultural produce only on this count. Then

a) The party of the First part shall be free to sell the produce to the party of the Second part at a mutually renegotiated price

OR

b) In open market (to bulk Buyer viz. exporter/processor/ manufacturer etc.) and if he gets a price less than the price contracted, he will pay to the party of the Second part, for his investment proportionately less

OR

c) In the market yard and if the price obtained by him is less than contracted price, then he will return proportionately less for the party of the Second investment.

In the event the party of the Second part refuses/fails to take the delivery of the contracted produce for his own reasons then the party of the First part will be free to sell the produce in the open market and if the price received is lower than the contracted price the difference will be on account of the party of the Second part and the party of the second part shall pay the said difference to the party of the First part within a period of _____ days from asserting the said difference.

Clause 5 :

The party of the First part agrees to adopt instructions / practices in respect of Land preparation, nursery, fertilization, pest management, irrigation, harvesting and any other, as suggested by the party of the Second part from time to time and cultivate and produce the items as per specifications mentioned in the schedule-I hereto.

Clause 6 :

It is expressly agreed by and between the parties hereto that buying will be as per the following terms and buying slips will be issued immediately after the purchase

| Date | Delivery Point | Cost of Delivery |
|------|----------------|------------------|
|------|----------------|------------------|

It is further agreed that it will be the responsibility of the party of the Second part to take into possession of the contracted produce at the delivery point agreed after it is offered for delivery and if he fails to take delivery within _____ period then the party of the First part will be free to sell the agriculture produce contracted as under :

a. In the open market (bulk buyer viz. exporter/ processor/ manufacturer etc.), and if he gets a price less than the price contracted, he will pay to the party of the Second part for his investment proportionately less

b. In the market yard, and if the price obtained is less than the contracted price then he will return proportionately less to the party of the Second part for his investment.

It is further agreed that the quality maintenance in transit will be the responsibility of the party of the Second part and the party of the First part shall not be responsible or liable for the same.

Clause 7 :

The party of the Second part shall pay to the party of the First part the price/rate mentioned in Scheduled I when his crop has been harvested and delivered to the party of the Second part after deducting all outstanding advances given to the party of the First part by the party of the Second part. The following schedule shall be followed for the payment.

| Date | Mode of Payment | Place of Payment |
|------|-----------------|------------------|
|------|-----------------|------------------|

Clause 8 :

The parties hereto shall insure the contracted produce mentioned in Schedule-I hereto, for the period of _____ against the risk of losses due to acts of Gods destruction of specified assets, loan default and production and income loss and all other acts or events beyond the control of the parties, such as very low production caused by the serious outbreak of a disease, epidemic or by abnormal weather condition, floods, drought, hailstorm, cyclones, earthquakes, fire or other catastrophes, war, acts of Government, action existing on or after the effective date of this agreement which prevent totally or partially the fulfillment of the obligation of the farmer. Upon request, the party of the First part invoking such acts shall provide to the other party confirmation of the existence of facts. Such evidence shall consist of a statement of certificate of the appropriate Governmental Department. If such a statement or certificate cannot reasonably be obtained, the party of the First part claiming such acts may as substitute, thereof, make a notarial statement describing in details the facts claimed and the reasons why such a certificate or statement confirming the existence of such facts. Alternatively, subject to the mutual agreement between the two parties, the party of the First part may fill his quota of the produce through other sources and the loss suffered by him thereby due to price difference, shall be shared equally between the parties, after taking into account the amount recovered from the insurance company, The

insurance premium shall be shared equally by both the parties.

Clause 9 :

The party of the Second part hereby agrees to provide following services to the party of the First part during the period of cultivation and post harvest management, particulars of which services are as follows :

- 1.
- 2.
- 3.
- 4.

Clause 10 :

The party of the Second part or it's representatives agrees to have regular interactions with the farmers forum set up/named by the party of the First part during the period of contract.

Clause 11 :

The party of the Second part or it's representatives at their costs shall have the right to enter the premises/fields of the party of the First part to monitor farming practices adopted and the quality of the produce from time to time.

Clause 12 :

The party of the Second part confirms that he has registered himself with the Registering Authority _____ on _____ and shall pay the fees in accordance with the law prevailing in this regard to the Registered Authority which has jurisdiction to regulate the marketing of agriculture produce which is cultivated on the land described _____

OR The party of the Second part has registered himself on _____ with a single point registration Authority namely _____ prescribed by the State in this regard. The fees levied by the respective Registering Authority shall be borne by the party of the Second part exclusively and will not be deducted in any manner, whatsoever, from the amounts paid to the party of the First part.

Clause 13 :

The party of the Second part will have no rights whatsoever as to the Title, Ownership, Possession of the land/property of the party of the First part nor will it in any way alienate the party of the First part from the land property particularly nor mortgage, lease, sublease or transfer the land property of the First party in any way to any other person/ institution during the continues of this agreement.

Clause 14 :

The party of the Second part shall submit true copy of this agreement signed by both the parties within a period of 15 days from the date of execution thereof with the _____ market committee/ registering authority as required by the APMR Act / any other registering authority prescribed for the purpose.

Clause 15 :

Dissolution, Termination/Cancellation of the Contract will be with consent of both the parties. Such dissolution or termination/cancellation deed will be communicated to the registering authority within 15 days of such dissolution, termination/cancellation.

Clause 16 :

In the event of any dispute or difference arising between the parties hereto or as to the rights and obligations under this agreement or as to any claim, monetary or otherwise of one party against the other or as to the interpretation and effect of any terms and conditions of this agreement, such dispute or difference shall be referred to arbitration authority constituted for the purpose of Authority declared by State Government in this regard.

Clause 17 :

In case of change of address of any party to this agreement, it should be intimated to the other party and also to the Registering Authority.

Clause 18:

Each party hereto will act in good faith diligently and honestly with the other in the performance of their responsibilities under this agreement and nothing will be done to jeopardize the interest of the other.

In witness whereof the parties have signed this agreement on the ____ day, _____ month and _____ year first above mentioned.

SIGNED, SEALED AND DELIVERED by the)

withinnamed 'PARTY OF THE FIRST PART')

in the presence of)

1.....)

2.....)

SIGNED, SEALED AND DELIVERED by the)

withinnamed 'PARTY OF THE SECOND PART')

in the presence of)

1.....)

2.....)

Schedule I

Grade, Specification, Quantity and Price Chart

| Grade | Specification | Quantity | Price/Rate |
|--------------|-----------------------------|-----------------|-------------------|
| Grade 1 or A | Size, Colour, Aroma etc. | | |
| Grade 2 or B | | | |