MEGHALAYA ACT 1 OF 1981

THE MEGHALAYA AGRICULTURAL PRODUCE MARKET ACT, 1980

(As passed by the Assembly)

[Received the assent of the President on the 31stJanuary, 1981]

An

Act

to provide for better regulation of buying and selling of certain agricultural produce and the establishment of markets therefor in the State of Meghalaya and for matters connected therewith

Be it enacted by the Legislature of Meghalaya in the Thirtieth Year of the Republic of India as follows:-

Short title, extent and commencement.

1.(1) This Act may be called the Meghalaya Agricultural Produce Market Act, 1981.

(2) It extends to the whole of the State of Meghalaya.

(3) It shallcome into force in such area and on such dates as the State Government may, by notification, in the Official Gazette, appoint and different dates may be appointed for different areas.

Definition.

2.In this Act, unless the context other-wise requires,

(i)"Agricultural Produce" includes any produce, whether processed or non-processed, ofagriculture, horticulture, animal husbandry, pisciculture, sericulture and forest as specified in the Schedule;

(ii)"Agriculturist" means a person who ordinarily by himself or by his tenants or hired labour or otherwise is engaged in the production of agricultural produce but does not include a dealer or broker in agricultural produce although such a dealer or broker may also be engaged in the production or growth of agricultural produce.

(iii)"Board" means the Meghalaya State Agricultural Marketing Board constituted under Section 3;

(iv) "Broker" means an agent whose ordinary course of business is to negotiate and make contracts for the purchase or sale of agricultural produce on behalf of his principal and who is remunerated by commission; but does not include the servant of such principal whether engaged in negotiating or making such contracts;

(v)"Bye laws" means bye-laws made under Section 53;

(vi) "Commission Agent" means a person who on behalf of another person and in consideration of commission makes or offers to make purchase or sale of agricultural produce or does or offers to do anything necessary for completing and carrying such purchase or sale;

(vii)"Co-operative Agent" means the Meghalaya Co-operative Apex Bank Ltd,. Registered under the Meghalaya Co-operative Societies Act (Assam Act 1 of 1950 as adapted by Meghalaya) or any other Cooperative Bank formed in the State of Meghalaya;

(viii)"Co-operative Marketing Society" means a Co- operative Society registered under the Meghalaya Co- operativeSocieties Act (Assam Act 1 of 1950 as adapted by Meghalaya) which has as its principal object the promotion of the sale of agricultural produce grown, reared or produced by its members or a Co-operative Society registered as such and declared to be equivalent to a Co-operative Marketing Society, by the State Government;

(ix) "Director" means the Director of Agriculture, Meghalaya and includes any other person or authority authorised by the Government, by notification, to perform the functions of the Director under this Act for suchan area as may be specified in the notification;

(x)"District Council" means a District Council constituted under paragraph 2 of Sixth Schedule to the Constitution of India;

(xi) "Licence" means a person to whom a license is granted under this Act;

(xii)"Localauthority" means a Municipal Corporation, a Municipal Board or a Town Committee constituted under any law in force;

(xiii)"Market" means a market established and regulated under this Act for the Market area and includes a market proper, a principalmarket yard and a sub-market yard or yards if any;

(xiv)"Market area" means any area declared to be a market area under Section 11;

(xv)"MarketCommittee"meansa Committee established under Section 13;

(xvi)"Market proper" means any area including all lands with thebuildings and structures thereon within such distance of the principal or sub-market yard declared to be a market proper under clause (b) of Section 12 (2);

(xvii)"Measurer" means a person whose business is to measure consignments of agricultural produce for sale ; (xviii)"Notified" Agricultural produce means the agricultural produce specified as such under Section 11;

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

(xx)"Principal Market Yard" and "sub-market yard" means an enclosure, building or localityin a market area declared to be a principal market yard and sub-market yard, respectively, under clause (a) of Section 12 (2).

(xxi)"Progressive producer" means a producer who in the opinion of the Director carries on agricultural production on improved method;

(xxii)"Registrar" means the Registrar of Co-operative Societies, Meghalaya;

(xxiii)"Retail Sale" means a sale of any agricultural produce not exceeding such quantity as may be fixed by bye-laws or rules in respect of such agricultural produce;

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

(xxv) "State Government" means the State Government of

Meghalaya;

(xxvi)"Schedule" means a schedule to this Act;

(xxvii) "Secretary" means the Chief Executive of the market committee and includes officiating, acting, Deputy and Assistant Secretary;

(xxviii) "Surveyor" means a person whose business is to survey a consignment of agricultural produce for sale in regard to quality, grade, adulteration and such other purposes;

(xxix)"Trade" means any mind of transaction of sale and purchase of any agricultural produce;

(xxx) "Trade" means a person who is ordinarily engaged in the business of buying and selling of agricultural produce whether by himself or by a duly authorised agent and includes a person who is ordinarily engaged in the business of proceeding of agricultural produce;

(xxxi)"Warehousing Corporation" means the Meghalaya State Warehousing Corporation established in Meghalaya under section 18 of the Warehousing Corporation Act, 1962;

(xxxii) "Weightman" means a person is or is not an agriculturist or trader for the purpose of this Act shall be decided in the manner prescribed and such decision shall be final.

(2) The question as to whether a person is or is not an agriculturist of trader for the purpose of this Act shall be decided in the manner prescribed and such decision shall be final.

Explanation.-For the purpose of this Act the word'person' includes any firm, joint family, association or body of individuals whether incorporated or not.

Constitution of State Agricultural Marketing Board.

3. (1) TheState Government may for the purpose of this Act establish and constitute a Board to be known as the Meghalaya State Agricultural Marketing Board, with Headquarters at Shillong, consisting of not more than fifteen members and which shall includes the following, namely-

(a)Six official members, that is-

(i)The Secretary to the Government of Meghalaya in the Agriculture Department;

(ii)The Director of Agriculture, Meghalaya;

(iii)The Director of Animal Husbandry and Veterinary, Meghalaya;

(iv) The Registrar of Co-operative Societies, Meghalaya; and

(v)Two others.

(b)Nine non-official members, that is-

(i)The Managing Director of the Meghalaya State Warehousing Corporation;

(ii)The Secretariat of the Executive Committee of the three District Council in the State;

(iii)One Agricultural representing the Market Committees;

(iv) One progressive farmer;

(v)One Licensee;

(vi) One representative of the Co-operative Marketing Societies; and

(vii)One representative of the Financial Institutions; (2) The members in item(v)of clause (a) and in items (iii) (iv), (v), (vi) and (vii) of clause (b) of sub-section (1) shall be nominated by the Government.

(3) The Secretary to the Government in the Agriculture Department shall be the *Ex*-officio Chairman of the board and the Government shall appoint an officer of the Agriculture Department not below the rank of a Deputy Director to be its Secretary.

(4) The term of office of the non-official members of the Board shall be three years;

Provided that the any non-official member in items (iii),(v) (vi) and (vii) of clause (b) of sub-section (1) shall cease to be a member of the Board from the date he ceases to be an Agriculturist member representing the Market Committee, a licensee, a representative of the Marketing Societies or a representative of the Financial Institutions, as the case may be.

(5) A non-official member of the Board may resign his membership by tendering his resignation to the Chairman of the Board and such resignation shall take effect from the date of acceptance.

(6) In case of vacancy in the Board caused by the resignation of otherwise of any non-official member the Government may nominate another person in his place in the manner provided under this act and such person shall remain in office for the remaining term of his predecessor.

(7) Five persons shall constitute a quorum at a meeting of the Board;

Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at such adjourned meeting.

(8) All questions before a meeting of the Board shall be determined by a majority of votes of the members present and voting and in case of equality of votes the Chairman may exercise a casting vote.

(9) No act or proceeding of the boardshall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Incorporation of the Board.

4. (1) The Board shall be a body corporate by the name of the Meghalaya State AgriculturalMarketing Board having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property and shall by the said name use and be used.

(2) The State Government shall exercise superintendence and control over the Board and its employees 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 the State Government may reconstitute it.

Disqualification for membership in the Board.

No person shall be eligible to be a non-official member of the Board who-

(a)is below twenty-one years of age;

(b)has been removed under Section 34 of this Act;

(c)is of unsound mind; or

(d)has been declared as insolvent orsentenced by a criminal court for an offence involving moral turpitude:

Provided that the disqualification under a clause (d) shall not apply after the expiry of four years from the date on which the period of the sentence expired.

Powers of the Board.

6. (1) The Board shall exercise all the powers conferredon and perform the functions and duties assigned to it by or under this Act.

(2) It shall exercise superintendence and control over the Market Committees inthe manner prescribed and may call for any information, or returns relating to notified agricultural produce from any Market Committee and shall have the power to inspect the records of any Market Committee and shall have the power to inspect the records of any Market Committee or such functionaries under or in relation to such Market Committee as the case may be.

(3) Notwithstanding anything contained in subsections (1) and (2) the State Government shall also have powers of superintendence and control over the Market Committees or other Functionaries under or in relation to such Market Committees.

Appointment of officers and staff.

7.Subject to other Provisions of this Act and rules and bye-laws framed thereunder the Board may its own officers and staff for carrying out the functions under this Act.

Power to borrow and maintenance of funds and accounts.

8.(1) The Board shall have its own fund into which all moneys received by it shall be paid and from all expenditure incurred shall be defrayed.

(2) The Board may, with the previous sanctionof the Government, raise money required for carrying out of the purposes for which it is established on the security of any property vested in it.

(3) The accounts of the Board shall be maintained in such form as the Government may prescribe.

Annual Financial Statements.

9.Subject to rules made for this purpose the Board shall submit to the Government a statement of the estimated income and expenditure for each financial year and the State Government shall give its approval with or without modification within two months of the receipt thereof failing which it shall be deemed to have been approved.

Notification of intention of exercising control over purchase and sale of agricultural produce in specified areas.

10.(1) The State Government may, after consultation with the District Council concerned, by notification, declare its intention of regulating the purchase, sale, or storage of such agricultural produce in such areas as may be specified and such notification shall be published in the manner prescribed:

Provided that no such consultation shall be necessary where an area is within the Cantonment and Municipality of Shillong.

(2) The notification under sub-section (1) shall state that any objection or suggestion received by the State Government within a period of not less than one month to be specified in the notification under sub-section (1) shall be considered by the State Government.

Declaration of market

11.(1) After the expiry of the period specified in the notification issued under section 10 and after considering such objections and suggestions as may be received the State Government may, by notification, declare the area so notified or any portion thereof to be a market area for the purpose of this Act in respect of all or any of the agricultural produce specified in the said notification. The notification shall be published in the manner prescribed.

(2) After the date of the publication of the notification under sub-section (1)or at such later date as may be specified therein, no person, local or other authority notwithstanding anything contained in any law for the time being in force , shall ,within the market area or within a distance thereof to be notified in the official Gazette in this behalf, set up, established or continued, any place for the purchase, sale or storage of any agricultural produce so notified, except in accordance with theprovisions of this Act, rules or bye-laws framed thereunder.

(3) Nothing in sub-section (2) shall apply to the purchase, sale or storage of such agricultural produce if the producer of such produce if the producer of such produce is himself its seller and the purchaser is a person who purchases such produce for his own consumption or if such agricultural produce is sold by retail sale to a person who purchases such for his own consumption.

(4) The State Government may, at an time by notification in the official Gazette, exclude from the market area any area or any agricultural produce specified for the market area.

Declaration of market yard.

12. (1) Foreach market area there shall be one principal market-yard and one or more sub-market yards as may be necessary.

(a)any enclosure, building or locality in any market area to be the principal market yard and other enclosures, buildings or localities in suchmarket areas to be one or more sub-market yard or yards for the area; and

(b)any area including all lands with the buildings and structures thereon within such distance of the principal or sub-market yard or yards as the case may be and as it thinks fit, to be market proper.

Establishment of Market Committee.

13.(1) The State Government may establish a market committee for every area declared to be a market area under sub-section (1) of Section 11. It shall be the duty of the market area under sub-section (1) of Section 11.It shall be the duty of the market committee to enforce the provisions of this Act and the rules and bye-laws framed thereunder in such market area.

(2) The State Government may establish aseparate market committee withinthe same market area of a part thereof if it is

satisfied that trading in a particular type of agricultural produce can be regulated only when an independent market committee already functioning is unable to undertake regulated trading in that commodity because of its peculiar nature:

Provided that not more than one market committee shall be established within the same market area or a part thereof for the same type of agricultural produce.

Constitution of Market Committee.

14.Every market committeeshall consist of the following member, namely:-

(i)five agriculturists to be nominated by the Board from amongst the progressive farmers of the market area in the manner prescribed;

(ii)three to be nominated by the traders otherwise than the Co-operativeMarketing Societies, holding valid licence under this Act from amongst themselves in the manner prescribed;

(iii)two to be nominated by the Registrar from amongst the members of the Managing Committee or Board of Directors, as the case may be, of the Co-operative Societies in the market area holding a licence under this Act;

(iv) one to he nominated by the State Government;

(v)one to be nominated by the members of the local authorities, if any, within whose jurisdiction the principal market yard is situated. When the principal market yard is situated. When the principal market-yard is situated within the jurisdiction of two or more local authorities shall nominate one members;

(vi) one to be nominated by the Warehousing Corporation, if a warehouse has beenestablished by such Corporation within the market area.

Period of office of Committee Member.

15.(1) Every member of market committee shall hold office for Market a period of three years commencing from the date of the first meeting of the market committee.

(2) The State Government may, by notification for sufficient cause to be stated therein, direct from time to time that the term of office of the members of a market committee be extended by such period not exceeding one year as may be specified in the notification.

(3) A member nominated under clauses (i), (ii), (iii) or (vi) of Section 14 shall cease to hold office, if he ceases to be a member of the category of persons from which he was nominated.

(4) A member shall also cease to holdoffice ifhere signs his membership and the same is accepted by the market committee or if he is removed by the State Government.

(5) Whenever any vacancy occurs in membership for any of the reasons aforesaid, the said vacancy shall be filled in the same mannerand such member shall hold office for the unexpired term of the member in whose place he is nominated.

(6) Notwithstanding any vacancy the market committee shall be competent to exercise its powers and perform its duties and none of its action shall be questioned merely on the ground of the existence of any vacancy or any defect in the constitution of the committee.

Election of a Chairman, etc.

16.(1) Every market committee shall elect, in the manner prescribed one of its members to be its Chairman.

(2) The Chairman shall exercise such powers and perform such duties on behalf of the committee under this Act and the rules made thereunder as may be prescribed.

(3) Whenever for any reason the office of the Chairman of any market committee falls vacant the Board shall appoint any one from amongst the members of such market committee as the Chairman to hold office as such, temporarily, till a Chairman is elected.

(4) The Chairman shall preside at every meeting of the market committee and in his absence the member present shall elect one from amongst themselves to preside over that meeting.

(5)When a meeting is held for the removal of the Chairman a duly elected at the meeting shall preside over that meeting.

Removal of Chairman

17.(1) The Chairman of any market committee may be removed from office by a resolution adopted by at least two-third of the total number of members of the market committee present and voting at the meeting convened for the purpose, in the manner prescribed.

(2) The State Government may, after giving an opportunity to explain, remove the Chairman of a market committee from office if he persistently omits or refuses to carry out or disobeys the provisions of this Act or the rules made thereunder or any directive issued by the competent authority under this act or rules made thereunder or if he becomes incapable of so acting or is declared insolvent or is convicted by a criminal court for any offence involving moral turpitude or declared disqualified under anyof the provisions of this act or the rules made thereunder.

Calling of meetings and quorum.

18. (1) No business shall be transacted at any meeting of the market committee unless-

(a)such meeting is called by the Secretary, under the direction of the Chairman or on a requisition by the members as prescribed, and

(b) there is a quorum.

(2) The quorum referred to in sub-section (1) shall be one-third of the total number of members of the market committee. If at any meeting there is no quorum, the meeting shall stand adjourned to some future day to be appointed by the Chairman or any member who may preside at the meeting, as the case may be. The members a present at such adjourned meeting shall form a quorum whatever their number may be.

Incorporation of market committee.

19. (1) Every market committee shall be a body corporate by such name as the State Government may specify by notification in the official Gazette. It shallhave perpetual

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

(2) Where a market committee is established in any area, no person shall function as a trader, commercial agent, broker, weightman, measurer, surveyor warehouseman or in any other capacity as the Board may determine within any market area under this act unless a licence is granted to such person by the market committee on payment of such fees and subject to such conditions as may be prescribed.

Functions of the market committee.

20. The functions of a market committee shall as follows-

(i)to maintain and manage the market yard and to control, regulate, and run the market in the interest of the agriculturists and traders holding licence from the market committee;

(ii)to regulate and controltransactions in the market, and to deal with any defaulting licence holder with respect to any notified agricultural produce;

(iii)to settle, mediate or arbitrate in all matters of claims, difference or disputes between the licensees, agriculturists or between licensees and agriculturists making use of the market;

(iv) to control and regulate the admissionto the market, to determine the conditions for the user of the market, to determine the conditions for the use of the market and to prosecute and confiscate the goods belonging to persons trading without a valid licence;

(v)to bring prosecute or defend or aid in bringing, prosecuting or defending any suit, action, proceedings application or arbitration, on behalf of the market committee or otherwise as directed by the State Government;

(vi) to purchase, hire, or acquire any land or other movable or immovable property for the purpose of its business to raise fund from the Government, or otherwise with the approval of the board and for the said purpose to enter into arrangement with the Government, local authority or otherwise;

(vii)to levy and recover marker charges, fees on agricultural produce, licence, and other fees and to impose fines and penalties; and

(viii)to do such other things as may be required for the purpose ofachieving the objects and purposes of this Act and the rules and bye-laws framed thereunder.

Power of the Market Committee.

21.A market committee shall have the power to regulate entryof person into the principal or sub-market yards, to supervise the behaviour of the person so entered for transacting business and to take disciplinary action against the license who fails to fulfil the conditions of the

licence or any direction of the market committee issues within the purview of this Act or rules or bye-laws framed thereunder.

Duties of the Market committee.

22. It shall be the duty of every market committee to enforce the provisions of this act, the conditions of licence granted under the rules and bye-laws framed under the Act in the market area and to provide such facilities as the State Government may, from time to time, direct in connection with the purchase and or sale of notified agricultural produce concerned.

Appointment of sub-committee and joint committee.

23. A market committeemay appoint a sub-committee or an*ad-hoc*committee from amongst its members for the administration of the sub-marketyard, for reporting or recommending or deciding any matter or matters and may delegate to such committee such of its powers or duties as it may think fit. There shall be at least three members in such committee.

Appointment of Secretary and other officers and staff.

24. (1) Every market committee shall have a Secretary appointed by the Government subject to such terms and conditions as may be prescribed.

(2) A market committee may also, with the approval of the Board, employ such other officers and staff as may be necessary for the management of the market on such terms and conditions as may be prescribed.

Execution of contracts.

25. Every contract entered into by a market committee shall be in writing and shall be executed by the Chairman and Secretary of the committee.

Power to levy fees.

26. A market committee shall levy and collect fees on the agricultural produce bought or sold in the notified market area at a rate not exceeding one rupee for every hundred rupee of the aggregate amount for which an agricultural produce is bought or sold whether for cash or for deferred payment or other valuable considerations:

Provided that-

(a)no fee shall be leviable in respect of any transaction in which delivery of the agricultural produce boughtor sold is not actually made; and

(b)a fee shall be leviable only on the parties to a transaction in which delivery is actually made.

Market Committee Fund.

27. All money received by a market committee shall be paid into a fund to be called “The Market Committee Fund” and all expenditures incurred by the market committee under or for purpose of this Act shall be defrayed out of thesaid fund. Any surplus remaining with the market committee after such expenditure shall be invested in such manner as may be prescribed in this behalf.

Contribution to the Board.

28. Every market committee shall, out of its fund, contribute to the Board a sum not exceeding 30percent of the moneys received by it as may be determined by the Government on account of the Board expenses and such other expenses incurred by the Board in the interest of market committee including the cost of staff that may be appointed by the Board for giving effect to the provisions of this Act in the market area.

Purposes for which market committee fund shall be expended.

29. The fund of the market committee shall be expended for the following purposes, namely:-

(i)payment of interest on the loans that may be raised for the purposes of the market and the provisions of sinking fund in respect of such loans;

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

(iii)the maintenance and improvement of the market;

(iv) the construction and repair of buildingsnecessary for the purposes of such market and for the persons using it;

(v)pay, pensions, allowance, gratuities, compensations for injuries resulting from accidents while on duty and compassionate allowances of its employees and contribution towards leave salary and pensions of the officers and staff on deputation to the market committee;

(vi) expenses connected with the collection dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce;

(vii)contribution to the Board under Section 28; and

(viii) other expenses connected with the carrying out the purposes of this Act and the rules and bye-laws framed thereunder.

Mis-application of funds.

30. If a market committee incurs an expenditure for any purpose other than those specified under the last preceding section or in excess of the expenditure approved by the Board then it shall be deemed to be a mis-application of the land.

Power to borrow.

31. (1) A market committee may, with theprevious sanction of state Government, raise money required for carrying out of the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.

(2) A market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipments required for establishing the market obtain loan from the State Government or any financial institution.

(3) The conditions subject to which such money or loan shallbe raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the State Government.

Acquisition of land for purpose of the Act.

32. (1) The State Government may, on the request of the the board or a Market Committee, acquire land required for the purpose of this act under the provisions of the Land Acquisition Act, 1894 (Act I 1894).

(2) The Board MarketCommittee shall be deemed to be a local authority for the purpose of the Land Acquisition Act, 1894 (Act I of 1894).

No trade allowance permissible except as prescribed.

33. No person shall make or recover any trade allowance other thanan allowance prescribed by rules or byelaws made under this Act in any market area in any transaction in respect of the notified agricultural produce concerned and no Civil Court shall, in any suitor

proceeding arising out of any such transaction, have regard to or recognise any trade allowance not so prescribed.

Explanation – Every deduction, other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard, when the purchase is made by reference to a known standard or on account of differencebetween the actual weights of the container and the standard weight or on account of the admixture of foreign matter shall be regarded as a trade allowance for the purposes of this section.

Liabilities of members market committee to removal from office.

34. (1) The State Government may, on the recommendation of the market committee supported by atleast two-third of the total members or on the recommendation of the Board, remove any member of the market committee, if such a member has in the opinion of the State Government, been guilty of misconduct, in the discharge of his duties or has become incapable of performing his duties as a member.

. Provided that no recommendation shall be made by the made by the market committee or the Board unless the member has been given a reasonable opportunity of showing cause why such recommendation should not be made;

Provided further that no order for removal of any member shall be passed by the State Government unless the member has been given a reasonable opportunity of showing cause why such order should not be passed.

(2) The decision of the State Government under sub-section (1) shall be final.

Members to be held responsible for mis-application of funds.

35. Every member of the market committee shall be personally liable for the mis-application of fund to which he shall havebeen a party, which shall havehappened through, or been facilitated by gross neglect of his duty as a member, and he may be sued for recovery of the moneys so mis-applied.

Duty to furnish information to the Government or other authority officer.

36. When the affairs of the Board or of a market committee are investigated or the proceedings of such Board or Committee are examined by the Government or any officer as may be authorised by the State Government in this behalf, all officers, and staff members of the Board and of such committee shall furnish such information in their possession in regard to the affairs or proceedings of the Board or Committee as the Government or such officer may require.

Power to inspect.

37. The Director, or any officer authorised by the State Government by general or special order shall have power to inspect the accounts of the Board or any market committee or to institute an enquiry into the affairs of the Board or any market committee and to require it to do a thing or to desist from doing anything which the Director or such officer considers necessary in the interest of the Board or any market committee, as the case may be, and in case of non-compliance to furnish a written reply to him within a reasonable time stating reasons therefor.

Power of the Board in emergency.

38. (1) In case of an emergency, the Board may suspend or cancel all or any licence issued under the provisions of this Act and take such other steps as may be deemed necessary in the interest of a market.

(2) When a market committee is not competent to perform the duties imposed by under this Act, under orders or decision of a court, the Board shall make such arrangement for performing the duties and functions of such a market committee,

Recovery of loss.

39. (1) Any loss that may occur to a market committee due to its failure to carry out any instruction of the Board shall be recoverable from the members of the market committee after due enquiry and reasonable opportunity have been given to them to show cause as to why such loss should not be recovered from them.

(2) Any amount recoverable from the members of market committee under this section shall be realised as an arrear of land revenue.

Suppression of market committee.

40.(1) If in theopinion of the State Government a market committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or the rules and bye-laws framed thereunder, or if it abuses its powers, the State Government may, after giving the market committee an opportunity to submit an explanation and objections, if any, by notification, supersede such committee for a period not exceeding one year at a time or dissolve the committee and reconstitute it as soon as possible.

(2) When a committee is superseded or dissolved under his section the State Government may appoint any person as an Administrator to exercise and perform all powers, duties and functions of the Market Committee until a new committee is reconstituted.

Consequences following supersession or dissolution.

41 (1) When an order of supersession or dissolution shall have been passed under the last preceding section the following consequences shall ensure:-

(a)all the members as well asthe Chairman of the market committee shall, from the date of such supersession or dissolution, be deemed to have vacated their offices;

(b)all assets vested in such committee shall during the period of supersession or dissolution vest in the State Government subject to all its liabilities.

(2) On the expiration of the period of supersession specified in the order

(a)extend the period of supersession for such further term as it may consider necessary, but not exceeding a period of one year at a time; or

(b)reconstitute the market committee:

Provided that the State Government may at any time before the expiration of the period of supersession take action under clause (b) of this sub-section.

(3) On the reconstitution of the market committee under sub-section (2) the Government shall transfer all assets and liabilities of the market committee as on the date of such transfer to the new market committee.

Penalty for contravention of Section II.

42. Whoever contravenes the provisions of sub-section (2) of Section II, shall, on conviction be punishable with fine which may extend to five hundred rupees and, in the case of continuing contravention, with further fine which may extend toone hundred rupees per day during which the contravention is continued after the conviction.

Eviction of encroacher yards.

43. Every encroacher of market yard or sub-market of market yard shall be evicted therefrom in such manner and procedure asprovided in any law in force for eviction of encroachers.

Penalty for Section 33.

44. (1) Whoever makes or recovers any trade contravention of allowance in contravention of the rules or bye-laws made under this Act, shall on conviction, be punishable with fine which may extend to rupees two hundred.

(2) All fines and damages recovered from an offender shall be paid to the fund of the market committee concerned.

Penalty for contravening Provisions of Section 36.

45. (1) if any officer or member of market committee which required to furnish information in regard to the affairs or proceedings of the Board or a market committee under Section 36-

(a)Wilfully neglects or refuse to furnish any information, or

(b)Wilfully furnished false information, he shall , on conviction, be punishable with fine which may extend to rupees two hundred.

(2) If any officer, member, or employee of the Board or a market committee wilfully neglects or refuses to do anyact or, without any reasonable excuse disobeys an order issued under the provisions of this Act or fails to furnish information or return required from him he shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Chairman Members, market committees to be public servants.

46. The Chairman, members, Secretary and other and staff of officers and staff of the Board and a market committee shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

Bar of suit in absence of notice.

47. (1) No suit shall be instituted against the Board or a market committee or any member, officer or staff thereof, or any person acting under the direction of such Board or market committee, for anything done or purported to be done in good faith for the purposeof this Act until the expiration of two months next after notice in writing, stating the causeof action, the name and place of abode of the intending plaintiff and the relief which he claims, has been in the case of the Board or a market committee, delivered or left at its office, staff or person as aforesaid, delivered to him or left at his office or usual place of abode and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be barred unless it is instituted within six months from the date the alleged cause of action arises.

Trial of Offences.

48. (1) No offence under this Act or any rule or bye-laws framed thereunder shall be used by a court other than that of a Magistrate of the First Class.

(2) No court shall take cognizance of any offence punishable under this act except on the complaint of the Secretary of the

Board or of the Market Committee or any other officer authorised by the State Government in this behalf.

Admissibility of copy evidence.

49. A copy of any entry in any book, register or list of entry as regularly kept in course of business in the possession of market committee shall, if, duly certified, in such manner as may be prescribed, be admissible in evidence of the existence of such entry and shall be admitted as evidence of the matter and the transaction therein recorded to the same extent the original entry would, if produced, have been admissible to prove such matter.

Recovery of sums due to and from market committee.

50. (1) Every sum due from a market committee to the State Government or the Board on any Local authority shall be realised as arrears of land revenue,

(2) Every sum due to a market committee from any person shall be reduced to the form of a demand certificate, as may be prescribed and signed by the Director or such officer as may be authorised by him in this behalf.

Power of the State Government to delegate its powers.

51. The State Government may delegate by notification in the official Gazette any of the powers conferred on it by or under this Act, to any of its officers or to the Board or to its Chairman or Secretary.

Power to make rules

52. (1) The State Government may either generally or specially for the Board or any market area or market areas make rules after previous publication for carrying out the purposes of this Act.

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

(i)The election of the Chairman of the market committee;

(ii)The powers to be exercised and the duties to be performed by a market committee and its Chairman and Secretary;

(iii)The management of the market, minimum and maximum fee which may be levied and collected by the market committee, the method, manner and mode of collection of such fee in respect of such agricultural produce sold and resold in the market areas;

(iv) The issue of licences to traders, persons and firms engaged in processing of agricultural, weightmen, measurers, surveyors warehousemen and the cancellation and suspension of such licence and the category of such other persons operating in a market area as may be determined by the Board and the

form in which and the condition subject to which such licences shall be issued, cancelled or renewed.

(v)The method and manner of holding meetings, the procedure to be followed at such meetings and the powers to be exercised at such meetings;

(vi) the form in which returns shall be submitted by the Board or a market committee;

form in which copies of document entries in the books of a market committee, may be certified and thecharges to be levied for the supply of such copies;

(viii) the kind and description of the weights and measures and the weighing and measuring instruments which shall be used in the transactions in agricultural produce in any market area;

(ix) the periodical inspection of all weights and measures and weighing and measuring instruments in use in market areas;

(x)the manner in which inquiry and inspection of the Board or a market committee shall be held ;

(xi) the matters in respect of which the Board or a market committee may make bye-laws and the procedure to be followed in making, amending or rescinding the bye-laws;

(xii)the declaration of market proper and market yards;

(xiii) the condition of service, recruitment provident fund, pension, and such other terms and conditions as may be required for the employment of the staff of the Board and the market committee;

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

(xv)the prohibition of brokers for acting in any transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller;

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

(xvii) 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;

(xviii)the form in which the accounts of the Board or a market committeeand the grant or sanction to plans and estimates shall be kept, the audit, inspection and publication of the accounts and audit report and the inspection thereof and supply of copies of such accounts and reports;

(xix) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by the Board or a market committee;

(xx)the investment and disposal of the surplus funds of a market committee;

(xxi) the regulation of advance, if any given to agriculturist by brokers , commission agents, or traders;

(xxii)the prevention of adulteration of agricultural produce;

(xxiii)the grading and standardization of agricultural produce;

(xxiv)the keeping of a list of prices of agricultural produce in respect of which the market is established;

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

(xxvi)the recovery and disposal of cost leviable by or under this Act;

(xxvii)other matters relating to the functioning of the Board or the Market Committee;

(xxviii)any other matter which has to be or may be prescribed.

(3) Any rules made under this act may provide that any contravention thereof or any of the conditions of licences issued will render the offender punishable with fine which may extend to rupees two hundred.

Bye-laws.

53. (1) Subject to any rules made by the State Government under Section 52, the Board may from time to time, in respect of any notified produce and market area, make bye-laws not inconsistent with this Act for the regulation of business and the conditions of trading in such market area.

(2) Any bye-law made under this section may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to rupees one hundred.

(3) The power of making bye-laws under this section shall be subject to the condition of previous publication.

Power of State Government to call for proceedings of market committees and to pass orders thereon.

54. The State Government may at any time call for and examine the proceedings of the Board or any market committee for the purpose of satisfying itself, as to the legality or propriety of any decision or order passed by the Board or market committee. If, in any case, it appears to the State Government that any decision or order or proceedings so called for should be modified, annulled or revised the State Government may pass such order thereon as it may think fit and such order shall be final.

Power of State to amend the schedule.

55. The State Government may, by notification in the Government official Gazette, add to amend or cancel any of the items of agricultural produce specified in the Schedule.

Savings.

56. Nothing contained in any other law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply toany market area or affects the powers of a market committee or the rights of a holder of a licence granted under this Act.

SCHEDULE

(*See* Section 2 (1) (i))

Group I. (1) Jute (baled and unbaled) (2) Cotton (ginned and unginned) (3) Mesta.

Group II.
(1) Paddy
(2) Rice.
(3) Chira.
(4) Khal.
(5) Wheat and wheat products.
(6) Maize.
(7) Other millets.
(8) Paddy husk.
(9) Rice brand and polish.
(10) Wheat brand and polish.

Group III.-
(1) Sesamum or til.
(2) Mustard,

Group IV.-
(1) Mandarin
(2) Orange.
(3) Other citrus.
(4) Pineapple.
(5) Banana.
(6) Papaya.
(7) Pear.
(8) Plum.
(9) Peach.

Group V.-
(1) Potato.
(2) Sweet potato.
(3) Tomato.
(4) Leafy and fresh vegetables.
(5) Yam.

Group VI.-
(1) Turmeric (whole and powdered).
(2) Ginger.
(3) Chillies (dry and green).
(4) Black Pepper.
(5) Betelnut.
(6) Betel Leaf.
(7) Tezpata.

Group VII.-
(1) Eggs
(2) Poultry.
(3) Cattle.
(4) Sheep.
(5) Goats.
(6) Buffaloes.

(7) Milk.
(8) Butter and cream.
(9) Ghee.
(10) Wool.
(11) Hide and skin.

Group VIII.- (1) Timber
(2) Bamboo.
(3) Grass Broom.
(4) Resin wood (Dhup lakri).

Group IX.- All type of fishes (excluding canned fish).