

Gujarat Agricultural Produce Markets Act, 1963

20 Of 1964

[20 May 1964]

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SCHEDULE 1 :- Schedule 1

Gujarat Agricultural Produce Markets Act, 1963

20 Of 1964

[20 May 1964]

An Act to consolidate and amend the law relating to the regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the State of Gujarat It is hereby enacted in the Fourteenth Year of the Republic of India as follows:- 1. For Statement of Objects and Reasons See Gujarat Government Gazette, Extraordinary Part V, dated the March 22, 1963, p. 153. This Act was assented to by the President on the 13th May 1964.

CHAPTER 1
PRELIMINARY

1. Section 1 :-

2. Definitions :-

In this Act, unless the context otherwise requires--

(i) "agricultural produce" means all produce, whether processed or not, of agriculture, horticulture and animal husbandry, specified in the Schedule;

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

1[(ii-a) "Board" means the Gujarat State Agricultural Marketing Board established under section 34;]

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

(iv) "bye-law" means a bye-law made under section 60;

(v) "co-operative marketing society" means a society registered or deemed to be registered an such under the Gujarat Go-operative Societies Act, 1961 and engaged in the business of buying or soiling of agricultural produce or of processing of agricultural produce and holding a licence;

2[(v-a) "Development Fund" means the State Agricultural Marketing Development Fund established under section 34L;]

(vi) "Director" means the Director of Agricultural Marketing and Rural Finance, Gujarat State;

(vii) "general commission agent" means a trader who bona fide

buys or sells or offers to buy or sell for an agreed commission, any agricultural produce on behalf of another person and does or offers to do anything necessary for completing and carrying out the transaction of such sale or purchase;

(viii) "joint family" means an undivided Hindu family and in the case of persons other than Hindus a group or unit the members of which are by custom joint in estate or residence;

(ix) "licence" means a licence granted under section 6 or, as the case may be, a general or special licence granted under section 27;

(x) "licensee" means a person holding a general licence under this Act;

(xi) "local authority" means--

(a) a corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949; or

(b) a municipality constituted or deemed to be constituted under--

(i) the Bombay District Municipal Act, 1901, or that Act as adapted and applied to the Saurashtra area; or

(ii) the Bombay Municipal Boroughs Act, 1925 or that Act as adapted and applied to the Saurashtra area or that Act as applied to the Kutch area; or

(c) a village panchayat constituted or deemed to be constituted under the Bombay Village Panchayats Act, 1959 or a gram a panchayat or nagar panchayat constituted under the Gujarat Panchayats Act, 1961 (Guj. VI of 1962).

(xii) "market" means a market declared or deemed to be declared under this Act;

(xiii) "market area" means any area declared or deemed to be declared to be a market area under this Act;

(xiv) "market committee" means a market committee established or deemed to be established under this Act;

(xv) "market proper" means any area declared or deemed to be declared to be a market proper under this Act;

(xvi) "prescribed" means prescribed by rules made under section 59;

(xvii) "principal market yard" means an enclosure, building or locality declared or deemed to be declared to be a principal market yard under this Act;

3[(xvii-a) "regulations" means regulations made under section 59A;]

(xviii) "retail sale" means a sale of any agricultural produce not exceeding such quantity as a market committee may by bye-laws determine to be a retail sale in respect of such agricultural produce;

- (xix) "rules" means rules made under section 59;
- (xx) "Secretary" means a Secretary of a market committee appointed under this Act;
- (xxi) "sub-market yard" means an enclosure, building or locality declared or deemed to be declared to be a sub-market yard under this Act;
- (xxii) "surveyor" means a person who carries on the business of surveying agricultural produce in respect of its quantity, quality, refraction, price and such other factors as may be prescribed;
- (xxiii) "trader" means any person, who carries on the business of buying or selling of agricultural produce or of processing of agricultural produce for sale and includes a co-operative society, joint family or an association of persons, whether incorporated or not, which carries on such business;
- (xxiv) "weighman" means a person engaged in the business of weighing or measuring agricultural produce;
- (xxv) "year" means a period of twelve months commencing and ending on such dates as may be prescribed.
1. Clause (ii-a) was inserted by Guj. 17 of 1985, s. 2(a).
 - 2 . Clause (v-a) was inserted, *ibid.*, s. 2(b).
 - 3 . Clause (xvii-a) was inserted by Guj. 17 of 1985, s. 2(c).

3. Determination Of Whether Person Is Agriculturist :-

- (1) Should a question arise whether or not any person is an agriculturist for the purposes of this Act, the Director shall decide the matter.
- (2) Any person aggrieved by the decision of the Director may file an appeal to the, State Government within sixty days from the date of such decision.
- (3) The decision of the State Government under sub-section (2) and subject thereto the decision of the Director under sub-section (1) shall be final.

CHAPTER 2

DIRECTOR AND OTHER OFFICIERS

4. Director And Other Officers :-

- (1) The State Government may, by notification in the Official Gazette, appoint an officer to be the Director of Agricultural Marketing and Rural Finance, Gujarat State, who shall exercise such powers and perform such functions and duties as are conferred or imposed on him by or under this Act and shall subject

to such general or special orders as the State Government may pass, superintend the administration and carry out the purposes, of this Act.

(2) The State Government may appoint such number of officers as may be deemed necessary to be Joint Directors or Deputy Directors who shall subject to the control of the Director, exercise such powers, and perform such of his functions and duties under this Act as the State Government may by general or special order direct.

CHAPTER 3

DECLARATION OF MARKET AREA, CONSTITUTION OF MARKETS AND ESTABLISHMENT OF MARKET COMMITTEES

5. Declaration Of Intention Of Regulating Purchase And Sale Of Agricultural Produce In Specified Area :-

(1) The Director may, by notification in the Official Gazette, declare his intention, of regulating the purchase and sale of such agricultural produce and in such area, as may be specified therein. Such notification shall also be published in Gujarati in a newspaper having circulation in the area and in such other manner as may be prescribed.

(2) Such notification shall state that any objection or suggestion received by the Director within the period specified in the notification which shall not be less than one month from the date of the publication of the notification, shall be considered by the Director.

(3) The Director shall also send a copy of the notification to each of the local authorities functioning in the area specified in the notification with a request to submit its objections and suggestions if any, in writing to the Director within the period specified in the notification.

6. Declaration Of Market Areas :-

(1) After the expiry of the period specified in the notification issued under section 5 (hereinafter referred to in this section as "the said notification"), and after considering the objections and suggestions received before its expiry and holding such inquiry as may be necessary, the Director may, by notification in the Official Gazette, declare the area specified in the said notification or any portion thereof to be a market area for the purposes of this Act in respect of all or any of the kinds of agricultural produce specified in the said notification. A notification¹[under this sub-section] shall also

be published in Gujarati in a newspaper having circulation in the said area and in such other manner, as may be prescribed.

(2) Notwithstanding anything contained in any law for the time being in force, from the date on which any area is declared to be a market area under sub-section (1), no place in the said area shall be used for the purchase or sale of any agricultural produce specified in the notification except in accordance with the provisions of the Act :

Provided that pending the establishment of a market in such area the Director may grant a licence to any person to use any place in the said area for the purchase or sale of any such agricultural produce and a licence so granted shall, unless it is cancelled or otherwise ceases to be in force, continue in force until the establishment of a market in the said area and for such period thereafter as may be prescribed.

(3) Nothing in sub-section (2) shall apply to the purchase or sale of any such agricultural produce, if its producer is himself its seller and the purchaser purchases it for his own private consumption.

(4) The Director may, on the report of the market committee or an officer appointed by the Director in this behalf and after holding such inquiry as he deems fit, suspend or cancel any licence granted under sub-section (2).

(5) After declaring in the manner specified in section 5 his intention of so doing, and following the procedure therein, the Director may, at any time by notification in the Official Gazette, exclude any area from a market area specified in a notification issued under sub-section (1), or include any area therein and exclude from or add to the kinds of agricultural produce so specified any kind of agricultural produce.²[A notification under this sub-section shall also be published in Gujarati in a newspaper having circulation in the said area and in such other manner, as may be prescribed.]

1. These words were substituted for the words under this section by Guj. 3 of 1979, s. 2(1).

2. This portion was added by Guj. 3 of 1979, s. 2(2).

7. Declaration Of Market, Market Yard And Market Proper :-

(1) For each market area, there shall be a market which shall consist of—

- (i) one principal market yard,
- (ii) sub-market yards, if any and
- (iii) all markets proper;

notified under sub-sections (2) and (3).

(2) The Director may, by notification in the Official Gazette, declare any enclosure, building or locality in any market area to be a principal market yard and any other enclosure, building or locality to be a sub-market yard.

(3) Whenever the Director declares for any market area, the principal market yard or a sub-market yard, he shall simultaneously declare, by notification in the Official Gazette, an area within such distance of the principal market yard or sub-market yard, as the case may be, as he thinks fit, to be a market proper, and thereupon all industrial concerns in the said area with their compounds, godowns and warehouses, where agricultural produce is stored shall stand included in the market proper.

(4) For the purposes of this Act, a market shall be deemed to have been established for any market area with effect from the date on which the principal market yard and a market proper are declared for that area.

8. Operation In Market Under Licence :-

No person shall operate in the market area or any part thereof except under and in accordance with the conditions of a licence granted under this Act.

9. Establishment Of Market Committee Or Committees :-

(1) Save as otherwise provided in sub-sections (2) and (3), the Director shall establish a market committee for every market area.

(2) Where on the declaration of any area as a market area, the Director is satisfied that it is necessary to establish a separate market committee for the efficient regulation of the purchase and sale of any specified kind of agricultural produce in the market area, he may in addition establish for the market area a separate market committee for the purpose.

(3) Where in respect of a market area for which a market committee has been established any kind of agricultural produce is added under the provisions of sub-section (5) of section 6, the Director may if satisfied that a separate market committee for the regulation of its purchase and sale is necessary establish one for the purpose.

(4) Where more market committees than one are established for any market area, subject to the provisions of section 24 each such market committee shall be deemed to be separately established for

a separate market area.

(5) Every market committee shall be deemed to be established under this section with effect from the date on which it is duly constituted for the first time under section 11.

CHAPTER 4

INCORPORATION AND CONSTITUTION OF MARKET COMMITTEE

10. Incorporation Of Market Committee :-

Its powers and duties

(1) Every market committee shall be a body corporate by such name as the Director may specify by notification in the Official Gazette. It shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire, hold, lease, sell or otherwise transfer property, to raise loans upon the security of its property in the manner and subject to the limits and other requirements including guarantees prescribed by rules, and to contract and to do all other things necessary for the purposes for which it is established.

(2) A market committee shall be deemed to be a local authority within the meaning of clause (26) of section 3 of the Bombay General Clauses Act, 1904.

11. Constitution Of Market Committee :-

Its powers and duties

(1) Every market committee shall consist of the following members, namely : --

(i) eight agriculturists who shall be elected by members of managing committees of co-operative societies (other than co-operative marketing societies) dispensing agricultural credit in the market area;

(ii) four members to be elected in the prescribed manner from amongst themselves by the traders holding general licenses;

(iii) two representatives of the co-operative marketing societies situate in the market area and holding general licenses, to be elected from amongst the members (other than nominal, associate or sympathiser members) of such societies by the members of the managing committees of such societies:

Provided that where the number of co-operative marketing societies so situate does not exceed two, only one representative shall be so elected;

(iv) one member to be nominated by the local authority (other than

the market committee) within whose jurisdiction the principal market yard is situated from amongst its councilors or, as the case maybe, members who do not hold any general license :

Provided that where under the law applicable to the local authority its councilors or members have vacated office and any person or administrator has been appointed to exercise the powers and perform the functions of the local authority, such person or, as the case may be, administrator shall nominate a member under this paragraph from amongst persons qualified to be councilors or members of the local authority and not holding a general license;

(v) two members to be nominated by the State Government:

Provided that when a market committee is constituted for the first time all the members thereof shall be persons nominated by the State Government and shall hold office for a period of two years from the date of their nomination.

(2) (a) If for any reason in the case of a market committee no election is held, the Director shall report the fact to the State Government and with the previous approval of the State Government nominate on the market committee members of the respective class specified in sub-section (1) from amongst persons qualified to be elected as members of the respective class.

(b) The persons so nominated shall hold office for such period not exceeding two years as the Director may, with the approval of the State Government determine.

(3) If for any reason in the case of a market committee an election does not result in the return of the required number of qualified persons to take office, the Director, after taking into consideration the views of the members already elected shall as soon as possible nominate from amongst persons qualified to be elected such number as is necessary to make up the required number and the persons so nominated shall be deemed to have been duly elected as members of the market committee.

(4) (a) The term of office of a market committee shall, save as otherwise provided in this Act, be four years from the date of its first general meeting.

(b) Save as otherwise provided in this Act, the term of office of the members of the market committee shall be co-extensive with the term of the market committee and also shall be deemed to extend to and expire with the day immediately before the date of the first general meeting of the market committee as reconstituted on the expiry of its term.

12. Resignation Of Members :-

Its powers and duties

Any member of a market committee may in the prescribed manner resign his office by tendering his resignation to the market committee, and the resignation shall take effect on the date on which it is accepted by the Director or on the expiry of sixty days from the date of tendering the resignation, whichever event occurs earlier.

13. Liability Of Members Of Market Committee To Removal From Office :-

Its powers and duties

(1) The Director may, on the recommendation of the market committee supported by at least two-thirds of the whole number of members by an order remove any member of the market committee elected or nominated under this Act, if after holding such inquiry as he may deem fit, the Director is of the opinion that such member has been guilty of neglect or misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member :

Provided that no resolution recommending the removal of any member shall be passed by the market committee unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made :

Provided further that no order for removal of the member shall be passed by the Director unless the member has been given a reasonable opportunity of being heard.

(2) A member so removed may, within 30 days of the date of communication thereof to him, make an appeal to the State Government.

(3) The decision of the State Government on appeal made under subsection (2) and, subject thereto, the decision of the Director under subsection (1), shall be final.

14. Disabilities From Continuing Member :-

Its powers and duties

(1) An elected or nominated member shall cease to hold office as such member if --

(i) he ceases to be a member of the electorate by which he was

elected; or

(ii) he being a member of the class specified in clause (i) of subsection (1) of section 11 is granted a general license under this Act; or

(iii) he being a member nominated by a local authority, ceases to be a councilor, or as the case may be, a member of the local authority, or is granted a general license under this Act.

(2) The question whether any member ceases to hold office under sub section (1) shall be determined by the Director.

15. Filling Up Of Vacancies :-

Its powers and duties

If at any time any vacancy occurs for any reason in a market committee and remains unfilled, it shall be filled within such period and in such manner as may be prescribed by the election or nomination as the case may be, of a member thereto. The member so elected or nominated shall hold office so long only as the member in whose place he is elected or nominated would have held it if the vacancy had not occurred.

16. Vacancy Or Defect In Constitution Not To Affect Proceedings Of Market Committee :-

Its powers and duties

No act or proceedings of a market committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the market committee.

17. Chairman And Vice-Chairman Of Market Committee :-

Its powers and duties

(1) Every market committee shall elect one of its members from the members of the class specified in clauses (i), (ii), and (iii) of sub-section (1) of section 11 to be its Chairman and another member to be its Vice-Chairman in such manner as may be prescribed.

(2) The Chairman or Vice-Chairman may resign from office by tendering his resignation in writing to the market committee but it shall not take effect until it is accepted by the Director or on the expiry of sixty days from the date of tendering the resignation whichever event occurs earlier.

(3) A temporary vacancy in the office of the Chairman or Vice-

Chairman shall be filled in such manner as may be prescribed.

(4) The Chairman and Vice-Chairman shall exercise such powers and perform such duties and hold office for such terms as may be prescribed.

18. Conduct Of Business Of Market Committee :-

Its powers and duties

Save as otherwise provided in this Act, the business of a market committee (including the holding of its meetings) shall be conducted in accordance with the rules, which may also prescribe the quorum at meetings.

19. Execution Of Contracts :-

Its powers and duties

Every contract entered into by a market committee shall be in writing and shall be signed on behalf of the market committee by its Chairman and two other members, and no contract not so executed shall be binding on it.

20. Budget Estimate :-

Its powers and duties

(1) Every market committee shall have prepared each year on or before such date, and in such manner, as may be proscribed a budget estimate of its income, and expenditure for the next succeeding year.

(2) The market committee shall before such date as may be prescribed sanction the budget so prepared without modifications or with such modifications as it thinks fit.

(3) Subject to any rules made in respect of reappropriation, no expenditure shall be incurred unless there be a provision in the budget estimate so sanctioned.

(4) A market committee may at any time during the year for which any budget estimate has been sanctioned cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget estimate shall be considered and sanctioned by a market committee in the same manner as if it were an original budget estimate.

21. Accounts, Audit, Annual Report :-

Its powers and duties

- (1) The accounts and records of a market committee shall be maintained and the accounts audited, in the prescribed manner.
- (2) Every market committee shall prepare an annual statement of accounts and an annual report in the prescribed manner and submit the same to such authority as may be prescribed.

22. Appointment Of Servants Of Market Committee And Conditions Of Service :-

Its powers and duties

- (1) There shall be a Secretary for every market committee, who shall be appointed by the market committee with the approval of the Director and subject to the terms and conditions prescribed. The Secretary shall exercise such powers and perform such duties as the market committee may from time to time direct.
- (2) The market committee may employ such other officers and servants as may be necessary for the management of the market. The market committee shall, in the case of any officer or servant of Government whom it employs pay such pension, contribution, gratuity or leave allowance as may be required by the conditions of his service under Government for the time being in force.
- (3) Subject to any rules made in this behalf, the market committee may provide for the payment to its officers and servants of such salaries, leave allowances, pensions or gratuities as it deems proper, and may contribute to any provident fund which may be established for their benefit.

23. Powers And Duties Of Market Committee :-

Its powers and duties

A market committee shall exercise the powers and perform the functions and duties conferred or imposed on it by this Act and the rules.

24. Provisions For Performance Of Duties Of Common Nature Where More Than One Committee Exists :-

Its powers and duties

- (1) Where more market committees than one are established for any market area, the Director may, notwithstanding anything contained in this Act, issue general or special directions as to which of the market committees shall exercise, perform and discharge respectively all or any of the powers, duties and functions of the

market committees under this Act, in which they are jointly interested or which are of a common nature.

(2) The cost incurred by a market committee in pursuance of directions issued under sub-section (1) shall be shared by the other market committees concerned in such proportions as may be agreed upon, or in default of agreement, as may be determined by the Director or such officer as the Director may designate in this behalf. The decision of the Director or officer, as the case may be, shall be final.

25. Appointment Of Sub-Committee And Delegation Of Powers :-

Its powers and duties

(1) A market committee may appoint one or more sub-committees consisting of such number of its members as it may determine, for carrying out any work or to report to it on any matter.

(2) A market committee may delegate to any one or more of its members or to any such sub-committee such of its powers and duties as it may deem necessary.

26. Duties Of Market Committees :-

Its powers and duties

It shall be the duty of every market committee to maintain and manage the market, to take all possible steps to prevent adulteration and to promote grading and standardisation of the agricultural produce as may be prescribed, to provide such facilities in the market as the Director may from time to time direct and to enforce in the market area the provisions of this Act, the rules, bye-laws and the conditions of licenses granted under the Act in connection with the purchase and sale of the agricultural produce with which it is concerned. It shall also be the duty of every market committee to collect and maintain such information relating to market intelligence as may be prescribed and to supply the same to Government whenever so required.

27. Licences Their Issue, Renewal , Suspension Or Cancellation Etc. And Appeals Against Refusal, Suspension Etc. Of Licence :-

Its powers and duties

(1) On the establishment of a market, the market committee may,

subject to rules made in that behalf, grant or renew a general license or a special license for the purpose of any specific transaction or transactions to a trader, general commission agent, broker, weighman, surveyor, warehouseman or any person to operate in the market area or part thereof, or after recording its reasons therefor, refuse to grant or renew any such license.

(2) Licenses may be granted under sub-section (1) in such forms, for such periods, on such terms and conditions and restrictions (including any provision for prohibiting brokers and commission agents from acting in any transaction both as buyer and seller, or on behalf of both the buyer and seller, and provision for regulating advances, if any, to be made to agriculturists by brokers, commission agents or traders and any provision for prescribing the manner in which and the places at which auctions of agricultural produce shall be conducted and the bids made and accepted and places at which weighment and delivery of agricultural produce shall be made in any market area) as may be prescribed or determined by the bye-laws and on payment of fees determined by the market committee within such maxima as may be prescribed.

(3) A market committee may, for reasons to be recorded in writing, suspend or cancel a licence, --

(i) if the licence has been obtained through willful misrepresentation or fraud, or

(ii) if the holder thereof or his servant or any person acting on his behalf with his express or implied permission, commits a breach of any of the terms, conditions, or restrictions imposed by the licence, or

(iii) if the holder of the licence has been adjudged an insolvent and has not obtained his discharge, or

(iv) if the holder of the licence is convicted of any offence under this Act :

Provided that no licence shall be suspended or cancelled unless the holder thereof has been given a reasonable opportunity to show cause against such suspension or cancellation.

(4) If in respect of any holder of a licence, it appears to the Director that on any ground specified in sub-section (3) an action under that sub-section by the market committee was necessary but that the market committee has not taken any such action, the Director may, on any such ground and for reasons to be recorded in writing and after giving a reasonable opportunity to the holder of the licence to be heard, by order suspend or cancel any licence granted or renewed under this section.

(5) Any person aggrieved by an order refusing to grant or renew a licence or suspending or cancelling any licence may, appeal within thirty days from the date of the communication of the order to him --

(i) to the Director, if such order has been made by a market committee, and

(ii) to the State Government, if such order has been made by the Director.

(6) The Director or as the case may be, the State Government after giving the appellant a reasonable opportunity of being heard, shall on such appeal make such order as is deemed just and proper.

28. Power To Levy Fees :-

Its powers and duties

The market committee shall, subject to the provisions of the rules and the maxima and minima from time to time prescribed levy and collect Fees on the agricultural produce bought or sold in the market area :

Provided that the fees so levied may be collected by the market committee through such agents as it may appoint.

29. Power Of Entry And Search :-

Its powers and duties

The Chairman, Vice-Chairman or Secretary of the market committee or any member, officer or servant authorised by the committee in this behalf, may --

(a) for carrying out any of the duties imposed on the market committee under this Act at all reasonable times enter and search any place, premises, or vehicle, and

(b) seize any article in respect of which he has reason to believe that an offence under this Act has been or is being or is about to be committed and any vehicle or animal which he has reason to believe to be in use or to have been used or to be about to be used for carrying such articles, and shall detain the same so long as may be necessary in connection with any proceeding under this Act or for a prosecution :

Provided that a report of the seizure shall forthwith be made by the person seizing the article, vehicle or animal to the Chairman if he is not the Chairman himself:

Provided further that the grounds for seizing any such article, vehicle or animal shall be communicated in writing within twenty

four hours of the seizure to the person from whose possession the same was seized.

30. Power To Remove Unauthorised Person From Market :-

Its powers and duties

(1) The Chairman, Vice-Chairman or Secretary of the market committee or any other member, officer or servant authorised by the committee in this behalf may summarily evict from the market any person found to be opening in the market area without holding a valid licence.

(2) Such eviction shall be without prejudice to any punishment to which the person evicted may be liable under this Act.

31. Certain Differences Regarding Construction Of Rules Etc. About Weights And Measures And Other Disputes To Be Decided By Market Committee :-

Its powers and duties

(1) Notwithstanding anything contained in the Bombay Weights and Measures (Enforcement) Act, 1958 if any difference arises between an Inspector appointed under section 15 of the said Act and any person interested as to the meaning or construction of any rule or regulation or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument in any mark area, at the request of the person interested it shall be and in other case may be, referred by the Inspector to the market committee and the decision of the market committee shall, subject to the provisions of sub-section (3), be final.

(2) If any dispute arises in the course of business under this Act between persons operating in the market, any person who is party to the dispute may refer it to the market committee and the decision of the market committee, subject to the provisions of sub-section (3), shall be final.

(3) From a decision under sub-section (1) or (2) an appeal shall within the time prescribed lie to the State Government or such officer as the State Government may appoint in this behalf. The decision of the State Government or, as the case may be, such officer shall be final.

CHAPTER 5

MARKET COMMITTEE FUND AND STATE AGRICULTURAL PRODUCE MARKET FUND

32. Market Committee Fund :-

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 in this behalf.

33. Purposes For Which The Fund Shall Be Expended :-

Subject to the provisions of section 32, the Market Committee Fund shall be expended for the following purposes, namely : --

- (1) the acquisition of a site or sites for the market;
- (2) the maintenance and improvement of the market;
- (3) the construction and repair of buildings necessary for the purposes of such market and for the health, convenience and safety of the persons using it;
- (4) the provision and maintenance of weights and measures;
- (5) the pay, pensions, leave allowances, gratuities, compensation for injuries resulting from accidents, compassionate allowances and contribution towards leave allowances, pension or provident fund of, and loans not exceeding Rs. 2,000 in the aggregate to, the officers and servants employed by it;
- (6) the expenses of and incidental to elections;
- (7) the payment of interest on loans raised for the purposes of the market and the provision of a sinking fund in respect of such loans;
- (8) the collection and dissemination of information regarding matters relating to crop statistics and marketing of the agricultural produce notified under section 6;
- (9) payment of contribution to the State Agricultural Produce Markets Fund;
- (10) propaganda in favour of agricultural improvement;
- (11) payment of allowances and traveling expenses to the members of the market committee and sub-committees; and
- (12) such other purposes under this Act as may be prescribed.

Chapter : 5-A - THE GUJARAT STATE AGRICULTURAL MARKETING BOARD
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34. Establishment Of State Agricultural Marketing Board :-

- (1) The State Government may, by notification in the Official

Gazette, establish, with effect from such date as may be specified in such notification, a Board to be called "the Gujarat State Agricultural Marketing Board".

(2) The Board shall be a body corporate, and shall have perpetual succession and a common seal, and may in its corporate name sue and be sued and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and to do all other things necessary for the purposes for which it is established.

(3) The Board shall be deemed to be a local authority within the meaning of clause (26) of section 3 of the Bombay General Clauses Act, 1904.

34A. Constitution Of Board :-

(1) The Board shall consist of the following members, namely : --

(i) the Chairman, who shall be nominated by the State Government;

(ii) nine members to be elected from amongst themselves by representatives consisting of one member each of a market committee to be determined from amongst such of its members who are agriculturists by a resolution passed by such market committee;

(iii) three members to be elected from amongst themselves by representatives consisting of one member each of a Market Committee to be determined from amongst such of its members who are trades by a resolution passed by such markets Committee ;

(iv) the Secretary to the Government of Gujarat, Agriculture and Rural Development Department or an Officer of that Department nominated by the Secretary, ex-officio ;

(v) the Secretary to the Government of Gujarat, Co-operation Department or an Officer of that Department nominated by the Secretary, ex-officio ;

(vi) the Registrar of Co-operative Societies, Gujarat State, ex-officio;

(vii) the Director of Agricultural Marketing, Gujarat State, ex-officio;

(viii) the Agricultural Marketing Advisor to the Government of India or his representative ;

(ix) the Managing Director of the Board, ex-officio :

Provided that when the Board is constituted for the first time, the members under clauses (ii) and (iii) shall be persons nominated by the State Government and shall hold office for a period of two years from the date of their nomination, such period being extensible by the State Government for a further period of two years so however that the total period shall not exceed four years in the aggregate.

(2) (a) Election of the members of the Board under clauses (ii) and (iii) of sub-section (1) shall be held in such manner as may be prescribed.

(b) Any dispute relating to the election of the members referred to in clause (a) shall be referred to the State Government or an officer authorised by the State Government in this behalf, and the decision of the State Government or the officer so authorised, as the case may be, shall be final.

(3) The State Government shall cause the names of the members of the Board who are elected under clause (ii) or (iii) of sub-section (1) to be published in the Official Gazette.

34B. Disqualification For Election On Board :-

A person shall be disqualified for being elected as a member of the Board if he --

- (a) does not ordinarily reside within the State and whose name is not included in the electoral roll of the Gujarat Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, and which is for the time being in force ; or
- (b) has not completed the age of 25 years ; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is an uncertified bankrupt or undischarged insolvent; or
- (e) has been convicted of any offence which, in the opinion of the State Government, involves moral turpitude ; or
- (f) is a Director, Secretary, Manager or other salaried officer of any incorporated company or any firm which has any share or interest in any contract or employment with, by, or on behalf of, the Board or any market committee; or
- (g) has been, at any time, found guilty of an offence punishable under this Act.

34C. Term Of Office And Conditions Of Service Of Members

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- (1) Save as otherwise provided in section 34B, every member of the Board, whether elected or nominated, shall hold office for a period upto the end of four years, --
 - (a) in the case of an elected member, from the date of publication of his name in the Official Gazette under sub-section (3) of section 34A; and
 - (b) in the case of a nominated member, from the date of his nomination :Provided that the State Government may, from time to time, by notification in the Official Gazette, extend the term of office of such members for a further period not exceeding one year in the aggregate.
- (2) Every member of the Board shall be paid such allowances and fees as may be prescribed.
- (3) The allowances and fees to the members shall be paid from the Development Fund.

34D. Meetings Of Board :-

- (1) The Board shall meet at such time and places, and shall subject to the provisions of sub-section (2) observe such rules of procedure in regard to the transactions of its business as may be provided by regulations.
- (2) A member, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Board or any market committee, shall at the earliest possible opportunity disclose the nature of his interest to the Board and shall not be present at any meeting of the Board when the contract, loan, arrangement or proposal discussed unless he is required by the other members for the purpose of eliciting information, and shall not vote thereon.

34E. Cessation Of Membership :-

- (1) If a member --
 - (a) becomes subject to any of the disqualifications mentioned in section 34B; or
 - (b) tenders his resignation in writing to, and such resignation is accepted by, the Managing Director, and in the case of the Chairman, by the State Government; or
 - (c) is absent without the permission of the Board from three consecutive meetings of the Board ;he shall cease to be a member.
- (2) In every case where a dispute arises as to whether a member has ceased to be a member or not it shall be decided by the State Government after giving an

opportunity to the member to be heard.

34F. Vacancies How To Be Filled :-

Any vacancy of a member of the Board shall be filled as early as practicable, and in the like manner as if the nomination or election were being made under section 34A :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

34G. Temporary Absence Of Chairman :-

Where the Chairman of the Board is by reasons of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence by the State Government or is otherwise unable to attend to his duties in circumstances not involving the cessation of his membership under section 34E, the State Government may appoint another person to act in his place and carry out duties and functions entrusted to him by or under this Act until such Chairman resumes his duties.

34H. Proceedings Presumed To Be Good And Valid :-

No disqualification of, or defect in the appointment of, any person acting as the Chairman or a member of the Board shall vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

34I. Officers And Servants Of Board And Their Conditions Of Service, Etc. :-

(1) The State Government shall appoint a Managing Director of the Board who shall also be the Chief Executive Officer of the Board.

(2) The Board may appoint such other officers and servants, subordinate to the Chief Executive Officer as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants . and their scale of pay shall --

(a) as regards the Managing Director, be such as may be prescribed, and

(b) as regards the other officers and servants, be such as may be determined by regulations.

34J. Powers And Functions Of Board :-

The Board shall, subject to the provisions of this Act, perform the following functions and shall have powers to do such things as may be necessary or expedient for carrying out such functions, namely: --

(i) to co-ordinate the working of the market committees and other affairs thereof including programmes undertaken by such market committees for development of principal market yards, sub-market yards and provision s of infrastructural facilities and amenities ;

(ii) subject to orders or directions, if any, of the State Government in this regard, to undertake the State level planning of the development of agricultural produce markets ;

(iii) to administer the Development Fund ;

- (iv) with the prior approval of the State Government, to give advice to market committees in general or to any market committee, in particular with a view to ensuring efficiency thereof ;
- (v) to approve proposals for selection of any new site by a market committee for establishment of principal market yard or sub-market yard:
Provided that this clause shall not apply to the selection of any new site by a market committee for establishment of principal market yard or sub-market yard where such new site is to be purchased by the market committee from its own resources ;
- (vi) where a market committee makes a request in that behalf, to supervise and guide the market committee in respect of the construction of infrastructural facilities in, or in hinterland of, a principal market yard or sub-market yard undertaken by the market committee ;
- (vii) where a market committee makes a request in that behalf, to supervise and guide the market committee in preparation of plans and estimates of construction programmes undertaken by the market committee;
- (viii) to execute all works chargeable to the Development Fund ;
- (ix) to maintain accounts in such forms as may be prescribed and get the same audited in such manner as may be laid down in the regulations;
- (x) to publish annually at the close of the year, progress report, balance-sheet, and statement of assets and liabilities and send copies thereof to each member of the Board, the State Government and. the Director of Agricultural Marketing, Gujarat State.
- (xi) to prepare and adopt budget for the ensuing year ;
- (xii) to make necessary arrangement for education, propaganda and publicity on matters relating to regulated marketing of agricultural produce;
- (xiii) to assist, undertake and promote market survey and. research in the field of agricultural marketing ;
- (xiv) to assist and undertake collection, compilation, dissemination and publication of market intelligence and statistics in respect of agricultural produce ;
- (xv) to promote and undertake grading and standardisation of agricultural produce;
- (xvi) to provide facilities for training of officers and staff of market committees ;
- (xvii) to arrange and organise seminars, workshops, camps, conferees, exhibitions in the State on agricultural marketing ;
- (xviii) to grant subsidy and loans to market committees for the purpose of this Act on such terms and conditions as the Board may by regulations determine ;
- (xix) where a market committee makes a request in that behalf, to give assistance to the market committee in technical, legal and administrative matters and maintenance of staff for rendering such assistance;
- (xx) to promote and assist orderly marketing of agricultural produce in areas where there is no regulation of market under this Act ;
- (xxi) to do such other things and perform such other acts as it may think necessary or expedient for the proper conduct of its business and the carrying into effect the purposes of this Act.

34K. Power And Duties Of Managing Director :-

The Managing Director appointed by the State Government under section 34I shall --

- (i) appoint "officers and servants of the Board in accordance with the procedure prescribed by regulations ;
- (ii) exercise supervision and control over officers and servants of the Board;
- (iii) incur expenditure from the Development Fund on sanctioned items of work;
- (iv) in cases of emergency, direct the execution or stoppage of any work and doing of any act which requires the sanction of the Board;
- (v) prepare annual budget of the Board in consultation with the Director of Agricultural Marketing, Gujarat State for consideration of the Board ;

- (vi) arrange for internal audit of the Board ;
- (vii) arrange for convening and holding of the meetings of the Board and maintain records of proceedings of meetings of the Board in such manner as may be prescribed by regulations ;
- (viii) take such steps as may be deemed necessary for execution of decisions of the Board ;
- (ix) authenticate, by his signature, orders, decisions and other documents of the Board ;
- (x) inspect construction works undertaken by the market committees, either from their own funds or loans or grants provided by the Board or any other agencies, and report omissions in such construction works to the Board and the Director of Agricultural Marketing, Gujarat State and take all corrective measures ;
- (xi) report to the State Government all such acts, either of the market committees or of the Board, as are contrary to the provisions of this Act, the rules and the regulations ;
- (xii) take such steps as may be deemed necessary for effective discharge of the functions of the Board.

34L. Establishment And Administration Of State Agricultural Marketing :-

- (1) There shall be established a fund to be called the State Agricultural Marketing Development Fund which shall be maintained and administered by the Board.
- (2) The amount standing to the credit of the State Agricultural Produce Market Fund under section 34 immediately before the commencement of the Gujarat Agricultural Product Markets (Amendment) Ordinance, 1985 shall, on such commencement, stand transferred to, and form the corpus of, the Development Fund.
- (3) The following shall form part of, or be paid into, the Development Fund, namely: --
 - (a) all contributions received by the Board from the market committees under sub-section (1) of section 34M ;
 - (b) all contributions and grants made or sanctioned to the Board by the State Government under sub-section (2) of section 34M ;
 - (c) any sums borrowed by the Board ;
 - (d) all incomes or moneys received by the Board from any source whatsoever including income or charge levied by it or donations or grants, received from the local authorities, market committees or other institutions and individuals ;
 - (e) amounts recovered as an arrear of land revenue under sub-section (3) of section 34T;
 - (f) such other sums as the State Government may, from time to time, specify.
- (4) All expenditure incurred by the Board shall, from time to time, be defrayed out of the Development Fund and surplus, if any, shall be invested by the Board in public securities or shall be deposited in any scheduled bank, as defined in the Reserve Bank of India Act, 1934 or in a co-operative bank approved by the State Government for this purpose.

34M. Contributions To Be Paid To Board :-

- (1) Every market committee shall pay to the Board as contribution an amount equal to such percentage of its income as may be prescribed from time to time by the State Government.
- (2) The State Government may, every year, make payment to the Board, by way of contribution or grants of an amount not less than five percent of the aggregate amount contributed to the Board by the market committees under sub-section (1).
- (3) The contribution or payment received by the Board under sub-section (1) and sub-section (2) shall be credited to the Development Fund.

34N. Power Of Bard To Borrow :-

- (1) The Board, may, from time to time, with the previous approval of the State Government and subject to the provisions of this Act and to such conditions as the State Government may, by general or special order, determine, borrow any sum required for the purposes of this Act by issue of bonds or stocks.
- (2) Such bonds or stocks shall be issued, transferred, dealt with or redeemed in such manner as the State Government may, by general or special order, direct.
- (3) 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, borrow money --
 - (i) from any scheduled bank or other bank or financial institution or other agency; or
 - (ii) by issue of debentures on the security of any property vested in the Board or on security of a part of its future income accruing to it under this Act.

34O. Utilisation Of Development Fund :-

- (1) The Development Fund may be utilised by the Board for discharging its functions under this Act.
- (2) Without prejudice to the generality of the foregoing provisions, the Board may utilise the Development Fund for all or any of the following purposes, namely: --
 - (a) supervision, regulation and improvement of markets established for the purposes, of this Act ;
 - (b) giving aid to market committees in the form of loans or grants to enable them to discharge their duties and functions under this Act ;
 - (c) payment of salaries, allowances, pensions, gratuities and compassionate grants to the Government servants, if any, serving under the Board.
Provided that all expenditure under this clause shall be a first charge on the Development Fund ;
 - (d) payment of allowances and fees to the members of the Board ;
 - (e) imparting education and giving publicity in the matters connected with the regulated marketing ;
 - (f) meeting legal expenses relating to the functions of the Board ;
 - (g) giving technical and administrative assistance to market committees including maintenance of staff for rendering assistance to market committees for the following purposes, namely: --
 - (i) Engineering ;
 - (ii) Legal assistance; and
 - (iii) Inspection ;
 - (h) imparting training to officers and servants of market committees or organising or arranging camps, workshops, seminars or conferences or exhibitions on development of marketing of agricultural produce;
 - (i) grading and standardisation of agricultural produce ;
 - (j) market survey, research, and collection, compilation, dissemination and publication of market information and statistics ;
 - (k) undertaking functions of a market committee in areas where there is no market committee or where a market committee is not viable ;
 - (l) construction of principal market yards, and sub-market yards and leasing or transferring them to market committees ;
 - (m) establishment and maintenance of office of the Board ;
 - (n) expenditure on audit of accounts of the Board ;
 - (o) sanctioning of loans and advances to the employees of the Board ;
 - (p) with the prior approval of the State Government, any other purposes connected with the marketing of agricultural produce, in any market area or market declared or deemed to be declared as such under this Act ;
 - (q) any of the matters connected with, or incidental to, any of the purposes

specified in clauses (a) to (p).

34P. Audit Of Account :-

- (1) The accounts of the Board shall be audited annually by such auditors and on payment of such audit fees, as may be prescribed.
- (2) The Board may, with the prior approval of the State Government, make arrangements for internal audit of its accounts in consultation with the Examiner of Local Fund Audit.
- (3) To carry out the auditing under this section, the auditors shall have access to all relevant records of the Board.

34Q. Delegation Of Power :-

Subject to the rules made in this behalf, the Board may, by general or special order, delegate to the Chairman or Managing Director, or any committee appointed by it under section 34R or to any officer of the Board, such of the powers and duties as are conferred on the Board by or under this Act.

34R. Appointment Of Committees :-

The Board may appoint committees consisting of its members, which may include the Chairman or the Managing Director, for the purposes of performing any of its duties or functions conferred on it by or under this Act.

34S. Power Of State Government To Hold Inquiry :-

- (1) The State Government with a view to satisfying itself that the powers, functions and duties conferred on the Board by or under this Act are exercised and performed by it properly may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board in such manner as may be prescribed and to report to it the result of such inquiries.
- (2) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before such person or persons any document or information in possession of the Board, if such person or persons so demand for the purpose of such inquiry.

34T. Liability Of Chairman, Other Members, Officers And Servants Of Board For Loss, Waste Or Misapplication Of Fund :-

- (1) The Chairman, other members, officers or servants of the Board shall be liable for the loss, waste or misapplication of any money or property of the Board, if such loss, waste or misapplication is, in the opinion of the State Government, a direct consequence of the neglect or misconduct on his part as such Chairman, other member, officer or servant.
- (2) If after giving such Chairman, other member, officer or servant a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the Chairman, other member, officer or servant was party to the loss, waste or misapplication of any money or property of the Board or that the loss, waste or misapplication is a direct consequence of the neglect or misconduct on his part, the officer so authorised shall, by an order in writing, direct such Chairman, other member, officer, or servant, as the case may be, to pay to

the Board within two months the amount required to be reimbursed to it for such loss, waste or misapplication.

(3) If the amount is not so reimbursed it shall be recovered as an arrear of land revenue under the order of the officer so authorised and credited to the Development Fund.

(4) Any person aggrieved by the order or action of the officer so authorised may, within one month from the decision or action, apply to the State Government for redress of his grievance.

(5) The State Government may, after hearing the applicant and taking such evidence as it thinks necessary, confirm, modify or set aside the order and also make such order as to costs as it thinks proper.

34U. Supersession Of Board For Default :-

(1) If the State Government after giving the Board an opportunity to render an explanation is satisfied that the Board has made a default in performing any duty or obligation imposed or cast on it by or under this Act, the State Government may fix a period for the performance of that duty or obligation and give notice to the Board accordingly.

(2) If in the opinion of the State Government the Board fails or neglects to perform such duty or obligation within the period so fixed for its performance, the State Government may by order supersede the Board and thereafter reconstitute the Board :

Provided that no such order shall be made unless an opportunity is given to the Board to show cause against such order.

(3) After the supersession of the Board and until it is reconstituted in the manner laid down in this Chapter, the powers, duties and functions of the Board shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for the purpose from time to time and the cost thereof shall be met from the Development Fund.

(4) All property vested in the Board shall, during the period of supersession, vest in the State Government.

CHAPTER 6

TRADE ALLOWANCE

35. No Trade Allowance Permissible Except As Prescribed :-

No person shall make or recover any trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, in any market area in any transaction in respect of agricultural produce specified in respect of the market area under the foregoing provisions of this Act, and no civil court shall, in any suit or proceeding arising out of any such transaction, take into consideration 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 a deviation from standard when the purchase is made by reference to a known standard, or on account of a difference between the actual weight of the container and the standard weight, shall be regarded as a trade allowance for the purposes of this section.

36. Penalty For Contravention Of Section 6 Of 8 :-

(1) Whoever without holding a licence uses any place in a market area for the purchase or sale of any agricultural produce or operates in a market area or any part thereof and thereby contravenes the provisions of section 6 or 8 shall, on conviction, be punished --

(i) for a first offence, with fine which may extend to five hundred rupees.

(ii) for a second offence of the same nature, with fine which may extend to one thousand rupees, and

(iii) for any subsequent offence of the same nature, with imprisonment which may extend to one month and fine which may extend to one thousand rupees:

Provided that in absence of special and adequate reasons to the contrary mentioned in the judgment of the Court the fine for the first offence shall not be less than one hundred rupees and for the second or any subsequent offence shall not be less than five hundred rupees.

(2) If the holder of a licence contravenes any condition of the licence, he shall, on conviction, be punished with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary mentioned in the judgment of the Court the fine shall not be less than one hundred rupees.

37. Penalty For Making Or Recovering Unauthorised Trade Allowance :-

Whoever, in contravention of the provision of section 35 makes or recovers any trade allowance other than an allowance prescribed by rules or bye-laws shall, on conviction, be punished with fine which may extend to five hundred rupees.

38. Payment Of Amount Of Fines To Market Committee :-

The State Government shall in each year after due appropriation made by a law made by the State Legislature pay to each market committee an amount equal to the amount of fines levied and collected in the previous year in respect of offences committed under sections 36 and 37 in its market area.

39. Penalty For Failure To Furnish Information Etc. :-

Any member, officer or servant of a market committee, who --

(a) wilfully neglects or refuses to furnish any information or to do any act, which he is bound to furnish or to do under this Act, or

(b) wilfully furnishes false information,

shall on conviction, be punished with fine which may extend to fifty rupees.

40. Offences By Companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and be liable to be proceeded against and punished accordingly.

Explanation. -- For the purpose of this section, --

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

41. Trial Of Offences :-

(1) No offence under this Act, or any rule or bye-law there under shall be tried by a Court inferior to that of a Magistrate of the First Class.

(2) Prosecutions under this Act may be instituted by any person duly authorised generally or specially in writing by the market

committee in this behalf.

42. Previous Sanction Necessary For Prosecution :-

No court shall take cognizance of any offence alleged to have been committed by a member, secretary, officer or servant of a market committee while acting or purporting to act in the discharge of his duties in relation to the affairs of the committee except with the previous sanction of the Director.

43. Powers And Duties Of Police Officer :-

(1) Any police officer may arrest any person committing in his view any offence against any provision of this Act or any rule or bye-law made there under, if the name and address of such person be unknown to him and he declines to give his name and address on demand, or gives a name and address the accuracy of which such officer has reason to doubt; and such person may be detained at the police station until his correct name and address has been ascertained.

(2) It shall be the duty of every police officer to communicate as soon as may be to the market committee any information which he receives regarding any attempt to commit or the commission of any offence against this Act or any rule or bye-law made there under, and to assist the Secretary or any officer or servant of the market committee reasonably demanding his aid in the exert use of his lawful authority.

CHAPTER 8 **CONTROL**

44. Power To Hold Inquiry :-

(1) The Director may of his own motion, himself or by an officer authorised by him, inspect or cause to be inspected the accounts of a market committee or hold an inquiry into the affairs of a market committee.

(2) When the affairs of a market committee are inquired into, all members, officers and servants of the committee shall furnish such information and produce such documents in their possession, relating to the affairs of the committee, as the Director or the officer may require.

(3) The Director and the officer shall have the power to summon and enforce the attendance of members and officers of the market

committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

(4) The Director or, as the case may be, the officer may require the market committee either as a result of the inquiry or otherwise to do a thing or to abstain from doing a thing which the Director or the officer considers necessary for the purposes of this Act, and to send a written reply to him within a reasonable time, stating whether the aforesaid requisition is complied and in case it is not complied, stating its reason for not complying with the requisition.

45. Power Of Director To Provide For Performance Of Duties In Default Of Market Committee :-

(1) Where the Director on a complaint made to him or otherwise is satisfied that a market committee has made default in performing any duty imposed on it by or under this Act, he may fix a period for its due performance.

(2) If the duty be not performed within the period so fixed, the Director may appoint a person to perform it, and may direct that the expense of performing it and the reasonable remuneration of such person shall be forthwith paid by the committee.

(3) If the expense and remuneration be not so paid, the Director may make an order directing the bank in which any moneys of the committee are deposited or the person in charge of any place of security in which the moneys of the committee are deposited to pay such expense and remuneration from moneys standing to the credit of the committee in such bank or in the hands of such person or such moneys as may from time to time be received from or on behalf of the committee by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be efficient discharge for such bank or person from all liability to the committee in respect of any sums so paid by it or him.

46. Supersession Of Market Committee :-

(1) If in the opinion of the State Government a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, the State Government may, by notification in the Official Gazette, supersede such market committee :

Provided that before issuing a notification under this sub-section, the State Government shall give a reasonable opportunity to the market committee for showing cause why it should not be superseded and shall consider the explanation and objections, if any, of the market committee.

(2) Upon the publication of a notification under sub-section (1) superseding a market committee the following consequences shall ensue, namely: --

(i) all the members as well as the Chairman and Vice-Chairman of the market committee shall as from the date of such publication be deemed to have vacated their respective offices.

(ii) The State Government may at its discretion, either order that a new market committee be constituted under section 11 or make such arrangements for carrying out the functions of the market committee, as it may think fit; and

(iii) all the assets vesting in the market committee shall, subject to all its liabilities, vest in the State Government.

(3) If the State Government makes an order under clause (ii) of sub-section (2), it shall transfer the assets and liabilities of the market committee as on the date of such transfer, to the new market committee constituted under section 11 or to the person or persons, if any, appointed for carrying out the functions of the market committee, as the case may be.

(4) If the State Government does not make such an order, it shall transfer all the assets of the market committee which remain after the satisfaction of all its liabilities, to the State Agricultural Produce Markets Fund constituted under section 34. The Director shall utilise such assets for such object in the area as he considers to be for the benefit of the agriculturists in that area.

47. Power Of Director To Call For Proceedings Etc. :-

The Director shall have power --

(a) to call for any proceedings of a market committee or an extract therefrom, any book or document in the possession or under the control of a market committee and any return, statement, account or report which the Director thinks fit to require such market committee to furnish; and

(b) to require a market committee to take into consideration --

(i) any objection which appears to the Director to exist to the doing of anything which is about to be done, or is being done, by such market committee; or

(ii) any information which the Director is able to furnish, and which appears to the Director to necessitate the doing of anything by the market committee,
and to make a written reply to the Director within a reasonable time stating its reasons for not doing or not desisting from doing anything.

48. Power Of State Government To Call For Proceedings Of Market Committee And To Pass Orders Thereon :-

The State Government may at any time call for and examine the proceedings of the Director or of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the Director or the market committee. In any case in which it appears to the State Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the State Government may pass such order thereon as it thinks fit.

CHAPTER 9 **MISCELLANEOUS**

49. Acquisition Of Land For Purposes Of This Act :-

(1) The State Government may acquire any land within a market area, which in its opinion is needed for the purposes of this Act, under the provisions of the Land Acquisition. Act, 1894 or any other corresponding law for the time being in force.

(2) Such land shall be transferred by the State Government to the market committee on payment by the market committee of the compensation awarded under the Land Acquisition Act, 1894, or any other corresponding law for the time being in force and of all other charges incurred by the State Government on account of the acquisition, within in such period and in such manner as the State Government may, by general or special order, determine and on such transfer the land shall vest in the market committee.

50. Members To Be Held Responsible For Misapplied Funds :-

Every member of the market committee shall be personally liable for any misapplication of its moneys to which he shall have been a party, or which shall have occurred through, or been facilitated by, gross neglect of his duty as a member, and may be sued for

recovery of the moneys so misapplied as if such moneys had been the property of the State Government:

Provided that no member shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of, the market committee, and the funds of the market committee shall be liable for, and be charged with, all costs in respect of any such contract and agreement and all such expenses.

51. Recovery Of Dues As Arrears Of Land Revenue :-

(1) Any sum due from a market committee to the State Government shall be recoverable as an arrear of land revenue.

(2) Any sum due to a market committee on account of any fees, charge, cost or expenses under this Act or under the rules or bye-laws remaining unrecovered after following the procedure prescribed by rules, shall be recoverable as an arrear of land revenue.

52. Power To Denotify Of Divide Market Area :-

Subject to the procedure laid down in section 5, the State Government may, by a notification in the Official Gazette, declare that a market area shall cease to be such area or divide a market area into two or more separate market areas.

53. Power To Denotify Or Divide Market Area :-

(1) Where a market area ceases to be a market area, --

(a) any market established therein shall cease to be a market, and
(b) the market committee or committees established for the market area shall stand dissolved and the following consequences shall ensue, namely:--

(i) the members of the committee or committees shall vacate their office;

(ii) the unexpended balance of the Market Committee Fund and other property and liabilities of the market committee shall vest in the State Government :

Provided that the State Government shall not be liable to discharge the liabilities so vesting in so far as the same exceed the unexpended balance of the Market Committee Fund and the value of the property vesting in the State Government.

(2) Where any area is excluded under section 6 from a market area for which a market committee has been established and such area

is not included in any other market area or declared to be a market area so much of the Market Committee Fund and other property vesting in the market committee as the State Government may by order in writing direct shall vest in the State Government.

(3) The State Government shall credit to the State Agricultural Produce Markets Fund such sum as in its opinion represents the fund and property vesting in it under sub-section (1) or (2).

54. Power Of State Government To Dissolve And Constitute Market Committee On Alteration Of Limits Of Market :-

(1) When during the term of a market committee the limits, of the market area for which it is established are altered or the market area is divided into two or more separate market areas, the State Government may by order in writing dissolve the market committee and direct that a market committee be constituted for each market area as formed on account of such alteration. The members of the market committee so dissolved shall vacate their office from the date specified in the order.

(2) A new market committee constituted under the provisions of sub-section (1) shall consist of members nominated by the State Government and its Chairman and Vice-Chairman shall be elected in the manner provided in his Act. The member shall, so far as in the opinion of the State Government may be practicable, be persons who were members of the dissolved market committee.

(3) The members of such new market committee shall hold office for such period not exceeding two years as the State Government shall by order in writing specify.

(4) On the expiry of the period of office of the members of a market committee under sub-section (3), the market committee shall be reconstituted in the manner provided in section 11.

55. Vesting Of Property Etc., Of Dissolved Market Committee In New Market Committee :-

(1) When under sub-section (1) of section 54 a new market committee has been constituted, there shall be transferred to it such portion of the dissolved committees market fund and other property and debts and obligations as the State Government may by order in writing direct.

(2) The rights and liabilities of the dissolved market committee in respect of civil and criminal proceedings, contracts, agreements and every other matter or thing arising in or relating to any part of the

area subject to the authority of the new market committee shall vest in the new market committee.

(3) Any notification, notice, fee, order, scheme, licence, permission, bye-law or form, made, issued or imposed by the market committee which has been dissolved, in respect of any part of the area subject to the authority of the new market committee, shall be deemed to have been made, issued or imposed by the new market committee unless and until it is superseded by any notification, notice, fee, order, scheme, licence, permission, rule, bye-law or form, made, issued or imposed by it.

56. Admissibility Of Copy Of Entry As Evidence :-

A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a market committee if duly certified in such manner as may be prescribed, shall, in respect of the existence of the entries and in respect of the matters and the transactions therein recorded, be admissible in evidence in every case to the same extent to which the original entry would, if produced, have been admissible.

57. Chairman, Vice-Chairman, Members, Secretary And Servants Of Market Committee To Be Public Servants :-

The Chairman, the Vice-Chairman, the members, the Secretary and other officers and servants of a market committee¹[and the Chairman, the members and other officers and servants of the Board] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

1. These words were inserted by Guj. 17 of 1985, s. 5.

58. Bar Of Suit In Absence Of Notice :-

(1) No suit or other proceedings shall be instituted against a market committee¹[or the Board] or a member, officer or servant thereof or a person acting under the directions of any of them for anything done or purporting to be done in good faith under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been in the case of a market committee,¹[or the Board] delivered or left at its office, and in the case of any such member, officer, servant or person as aforesaid delivered to him or left at his office or usual

place of abode, and unless the plaint contains a statement that such notice has been so delivered or left,

(2) Any such suit not instituted within six months from the date of the accrual of the alleged cause of action shall be dismissed.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877 (I of 1877).

1. These words were inserted, by Guj. 17 of 1985, s. 6.

59. Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules, either generally or specially for any market area or market areas for the purposes of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for or regulate --

(i) this preparation and revision of list of voters for the purpose of any election under section 11, determination of disputes arising in such election and payment; of expenditure in connection with or incidental to such election;

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

(iii) the manner of control and supervision to be exercised by the market committee over Inspectors appointed under section 15 of the Bombay Weights and Measures (Enforcement) Act, 1958;

(iv) the provision of facilities for the settlement of any dispute between a buyer and seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, containers, dirt or impurities or deductions for any cause;

1 [(iv-a) the manner of election of members of the Board under clause (a) of sub-section (2) of section 34A;

(iv-b) the allowances and fees to be paid to a member of the Board under sub-section (2) of section 34C;

(iv-c) the conditions of appointment and service and pay-scale of the Managing Director under clause (a) of sub-section (3) of section 34I;

(iv-d) the forms in which accounts shall be maintained under clause (ix) of section 34J;

(iv-e) the percentage of the income of market committees at which the market Committees shall pay contribution to Development Fund

under sub-section (1) of section 34M;

(iv-f) the auditors by whom and the audit fees on payment of which accounts of the Board shall be audited annually under sub-section (1) of section 34P;

(iv-g) the delegation of powers and duties by the Board under section 34Q;

(iv-h) the manner in which inquiries into all or any of the activities of the Board shall be made under sub-section (1) of section 34S;]

(v) 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;

(vi) any other matter which is expressly required or allowed by this Act to be prescribed by rules,

(3) Any rule made under this Act may provide that any contravention thereof or any of the conditions of any licence issued or renewed there under shall, on conviction, be punishable with imprisonment which may extend to one month or with fine which may extend to five hundred rupees or both.

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

(6) Any rescission or modifications so made by the Legislature shall be published in the Official Gazette and shall thereupon take effect.

1. These clauses were inserted by Guj. 17 of 1985, s. 7.,

59A. Regulations :-

1 [59 A. Regulations

(1) The Board may, with the previous approval of the State Government, make regulations, not inconsistent with this Act and the rules made there under, 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, namely : --

(a) the time and date at which and the place where meetings of the Board shall be held, the procedure in regard to transaction of its business (including quorum) at such meetings under sub-section (1) of section 34D;

(b) the conditions of appointment and service of officers and servants of the Board under clause (b) of sub-section (3) of section 34I;

(c) the manner in which accounts of the Board shall be audited under clause (ix) of section 34J;

(d) the terms and conditions on which subsidy and loans to market committees

may be granted under clause (xviii) of section 34J;
(e) the procedure to be followed under clause (i) of section 34K in appointing officers and servants of the Board;
(f) the manner in which the record of the proceedings of the meetings of the Board shall be maintained under clause (vii) of section 34K;
(g) authentication of orders, decisions and other documents of the Board under clause (ix) of section 34K;
(h) any other matter which is expressly required or allowed by this Act to be prescribed by regulations.]

1. Section 59A was inserted by Guj. 17 of 1985, s, 8.

60. Bye-Laws :-

(1) A market committee may, in respect of the market area and agricultural produce for which it is established, make bye-laws, not inconsistent with this Act and the rules made there under, for the regulation of business and the conditions of trading in the market area and for any other matters as may be prescribed :

Provided that no such bye-law shall be valid until it is registered under this Act.

(2) Any bye-law made under sub-section (1) may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to two hundred rupees.

(3) A copy of every bye-law made under sub-section (1) shall be forwarded to the Director in the prescribed manner.

(4) On receipt of the copy, the Director if satisfied that the bye-law so forwarded is not inconsistent with this Act and the rules made there under, may register the bye-law)

Provided that no order refusing to register a bye-law shall be passed without giving the market committee an opportunity of being heard.

(5) Where the Director registers any bye-law of a market committee, he shall issue to it a copy thereof certified by him which shall be conclusive evidence of its registration.

(6) Where the Director refuses to register any bye-law he shall communicate the order of refusal, together with his reasons therefor, to the market committee.

61. Power To Direct Making Of Bye-Laws :-

(1) If on a representation made in that behalf or otherwise it appears to the Director that the making of a bye-law or any modification or rescission of an existing bye-law is necessary or desirable in the interests of a market committee, he may call upon it to make the bye-law or to modify or rescind the existing bye-law within such time as he may specify.

(2) If the market committee fails to comply with the direction issued under sub-section (1) within the time so specified, the Director after giving the market committee an opportunity of being heard and with the prior approval of the State Government, may make, modify or as the case may be, rescind the bye-law and register the bye-law or as the case may be, the modification or rescission so made and shall thereupon issue to the market committee a copy thereof certified by him. With effect from the date of such registration, the bye-law, the modification or as the case may be, rescission shall be deemed to have been duly made under this Act as if it had been made by the market committee under section 60.

62. Power Of State Government To Amend Schedule :-

(1) The State Government may, by notification in the Official Gazette, add to, amend or cancel any of the items of agricultural produce specified in the Schedule.

(2) A notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which it is laid, or the session immediately following,

(3) Any rescission or modifications so made by the Legislature shall be published in the Official Gazette and shall thereupon take effect.

63. Provisions Of Certain Laws Not To Apply :-

Nothing contained in the Bombay Markets and Fairs Act, 1862, or in any law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply to any market area or affect in any way the powers of a market committee or the rights of a holder of a licence granted under this Act to set up, establish or continue any place for the purchase or sale of any agricultural produce notified under sub-section (1) of section 6 in such area.

64. Repeal And Saving :-

(1) The Bombay Agricultural Produce Markets Act, 1939 and the Saurashtra Agricultural Produce Markets Act, 1955 are hereby repealed.

(2) Notwithstanding the repeal of the said Acts, --

(i) every market area, market, principal market yard, sub-market yard and market proper declared under any of the Acts so repealed and existing immediately before the commencement of this Act shall be deemed to be declared as such under this Act and the provisions of this Act shall apply thereto;

(ii) every market committee established for any market area under any of the Acts so repealed shall, notwithstanding anything contained in section 11 but subject to the other provisions of this Act, be deemed to be a market committee established for the said market area under this Act and the members thereof holding office immediately before the commencement of this Act shall continue to hold office for the period for which they would have held office, had this Act not been enacted or until the market committee is duly reconstituted under section 11 whichever is earlier :

1 [Provided that if, in the case of any market committee, the period for which the members thereof would have held office as aforesaid expires before the 30th September, 1965, it shall be deemed to have been extended upto the end of December, 1965;]

(iii) any other thing done or action taken (including any appointment, order, notification, rule, bye-law made, licence issued, or fee imposed) under any of the Acts so repealed shall be deemed to have been done or taken, under the corresponding provisions of this Act and shall continue in force until it is superseded by anything done or action taken under this Act.

1. This proviso shall be and shall be deemed always to have been added by Guj. 5 of 1965, s. 2.

SCHEDULE 1

Schedule 1

[See Section 2 (i)]

I. Fibres		
(1)	Cotton (ginned and unginned).	(2) Sanhemp.
II. Cereals		
(1)	Wheat.	(8) Maize.
(2)	Paddy (husked and unhusked).	(9) Sarsav.
(3)	Jowar.	(10) Bavto.
(4)	Bajri.	(11) Barley.
(5)	Nagli.	(12) Banti.
(6)	Vari.	(13) Chino.
(7)	Kodra.	
III. Pulses		
(1)	Tur.	(7) Lang.

(2)	Gram.	(8) Math.
(3)	Udid.	(9) Peas.
(4)	Mung.	(10) Kulthi.
(5)	Val.	(11) Splits (Dal) of pulses.
(6)	Chola.	(12) Masur.
IV. Oilseeds		
(1)	Groundnut shelled and unshelled).	(8) Castor seed.
(2)	Linseed.	(9) Khursani.
(3)	Sesamum.	(10) Niger-seed.
(4)	Safflower.	(11) Oil cakes.
(5)	Ambadi.	(12) Thymol (Ajmoseeds).
(6)	Coconut.	(13) Dil seeds (shepa).
(7)	Cotton seed.	1[(14) Kalingada Seed.]
V. Narcotics		
(1)	Tobacco.	
VI. Gul, sugar and sugar cane.		
VII. Fruits		
(1)	Mango.	(10) Strawberry.
(2)	Mosambi.	(11) Melons.
(3)	Santra.	(12) Water Melon.
(4)	Lemon.	(13) Papaya.
(5)	Banana.	(14) Guava.
(6)	Grapes.	(15) Bor.
(7)	Pomegranate.	(16) Falsa.
(8)	Fig.	(17) Mango chips.
(9)	Chicoo.	
VIII. Vegetables		
(1)	Potato.	(5) Leafy and fresh vegetabls.
(2)	Onion.	(6) Yam.
(3)	Tomato.	(7) Sweet potatoes.
(4)	Suran.	(8) Kochara.
IX. Animal Husbandry Products		
(1)	Eggs.	(6) Wool.
(2)	Poultry.	(7) Butter.
(3)	Cattle.	(8) Ghee.
(4)	Sheep	(9) Milk.
(5)	Goat.	
X. Condiments, spices and others		
(1).	Turmeric.	(10) Cashewnuts.
(2)	Ginger.	(11) Cummin (Jiru.)
(3)	Garlic.	(12) Rai.
(4).	Corriander	(13) Mathi.

(5)	Chillies.	(14) Isabgul.
(6)	Cardamom and pepper.	(15) Asario.
(7)	Variali	(16) Musli.
(8)	Betel-nuts.	(17) Gum (gundar)
(9).	Betel-leaves.	(18) Tamarind.
XI. Grass and fodder		
XII. Cattle Feeds		
(1)	Guwar.	(2) Punvad.

1. Item 14 was inserted by G. N., A. and C.D., No.GH-KH-257-APM/1068/87.D dated the 30th April, 1968.