

**MAHARASHTRA AGRICULTURAL PRODUCE MARKETING
(REGULATION) ACT, 1963**

20 of 1964

[5th May, 1964]

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SCHEDULE 1 :- SCHEDULE

MAHARASHTRA AGRICULTURAL PRODUCE MARKETING (REGULATION) ACT, 1963

20 of 1964

[5th May, 1964]

An Act to regulate the marketing of agricultural and certain other produce in market areas and markets to be established therefor in the State; to confer powers upon Market Committees to be constituted in connection with or acting for purposes connected with such markets; to establish Market Fund for purposes of the Market Committees and to provide for purposes connected with the matters aforesaid. WHEREAS it is expedient to regulate the marketing of agricultural and certain other produce in market areas and markets to be established therefor in the State; to confer powers upon Market Committees to be constituted in connection with or acting for purposes connected with such markets; to establish Market Fund for purposes of the Market Committees and to provide for purposes connected with the matters aforesaid; It is hereby enacted in the Fourteenth Year of the Republic of India as

follows :-

CHAPTER 1

Preliminary

1. Short title, extend and commencement :-

(1) This Act may be called the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963.

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

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

2. Definitions :-

(1) In this Act, unless the context otherwise requires :-

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

(b) "agriculturist" means a person who ordinarily by himself or by hire labour or otherwise is engaged in the production or growth of agricultural produce which has not been processed, but does not include a trader, commission agent, processor or [broker, an employee of Government or of any co-operative society or of a Market Committee, or a partner in trading firm or an industrial concern in or in relation to agricultural produce although such trader, commission agent, processor, broker, an employee of Government or of any co-operative society or of any Market Committee or a partner in trading firm or an industrial concern may also be engaged in the production or growth of agricultural produce ;

(c) "broker" means an agent who contrives, makes and concludes a bargain or contract on behalf of his principal for the purchase or sale of agricultural produce for which he receives a fee or remuneration, but does not receive, deliver, transport, or pay for the purchase, or collect payment for the sale, of the agricultural produce;

(ca) "buyer" means a person, the Central Government or any State Government, who himself or itself or on behalf of any person or agent buys or agrees to buy agricultural produce in the market area ;]

(d) "bye-laws" means bye-laws made under section 61;

(e) "commission agent" means a person who by himself or through his servants buys and sells agricultural produce for another person, keeps it in his custody and controls it during the process of its sale or purchase, and collects payment therefor from the buyer and pays it to the seller, and receives by way of remuneration a commission or percentage upon the amount involved in each transaction;

(f) "Director" means a person appointed as the Director of Agricultural Marketing * * * * for the State of Maharashtra [and includes any officer or officers empowered by the State Government by notification in the Official Gazette to exercise or perform such of the powers and functions of the Director under the provisions of this Act or rules or bye-laws made thereunder as may be specified in such notification ;] ;

[(fa) " hamal " means a hamal or a coolie or a labourer, engaged for loading unloading, filling, emptying, stacking, stitching, sorting, cleaning or carrying any agricultural produce or doing any work preparatory or incidental thereto in the market area and who holds a valid licence for the purpose from the Market Committee ;];

(g) "local authority" includes a Panchayat Samiti;

(h) "market" means any principal market established for the purposes of this Act and also a subsidiary market;

(i) "market area" means an area specified in a declaration made under section 4;

(j) "Market Committee" or "Committee" means a committee constituted for a market area under section 11 [and includes a committee or committees constituted as a result of amalgamation of Market Committees or division of a Market Committees under section 44 ;

(k) "member" means a member of a Market Committee;

(l) "Panchayat Samiti" means a Panchayat Samiti established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961;

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

(n) "processor" means a person who processes any agricultural produce [either of his own account, or] on payment of charge;

- (o) "retail sale" means, in relation to any agricultural produce, sale of that produce not exceeding such quantity as a Market Committee may by bye-laws determine to be a retail sale;
- (p) "rules" means rules made under this Act;
- (q) "Schedule" means the Schedule to this Act;
- (r) "Secretary" means a Secretary of a Market Committee and includes a Joint Deputy or Assistant Secretary ; [(ra) "State Marketing Board" means the Maharashtra State Agricultural Marketing Board established under section 39A ;] ;
- (s) "Surveyor" means a person who on arrival of a consignment of agricultural produce for sale in any market area or market, surveys it for ascertaining the quality, refraction, adulteration and other like factors;
- (t) "trader" means a person who buys or sells agricultural produce, as a principal or as duly authorised agent of one or more persons;
- (u) "Zilla Parishad" means a Zilla Parishad established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

(2) If any question arises whether a person is or is not an agriculturist for the purposes of this Act, the matter shall be referred to the Director, and the decision of the Director thereon shall be final.

3. Market areas and markets :-

(1) The State Government may, by notification in the Official Gazette, declare its intention of regulating the marketing of such agricultural produce, in such area as may be specified in the notification. The notification may also be published in the language of the area in any newspaper circulating therein, and shall also be published in such other manner as in the opinion of the State Government is best calculated to bring to the notice of persons in the area, the intention aforesaid.

(2) The notification shall state that any objection or suggestions which may be received by the State Government within a period of not less than one month [to be specified in the notification] will be considered by the State Government.

4. Declaration of regulation of marketing of specified agricultural produce in market area :-

(1) On the expiry of the period specified in the notification issued under section 3, the State Government shall consider the objections and suggestions, if any, received before the expiry of such period and may, if it considers necessary, hold an inquiry in the manner prescribed. Thereafter, the State Government may, by another notification in the Official Gazette, declare that the marketing of the agricultural produce specified in the notification shall be regulated under this Act. in the area specified in the notification. The area so specified shall be the market area. A notification under this section may also be published in [a newspaper in the Marathi language] circulating therein, and shall also be published in such other manner as in the opinion of the State Government is best calculated to bring to the notice of persons in the area the declaration aforesaid.

(2) On any declaration being made under sub-section (1) no local authority [or any other person] shall thereafter, notwithstanding anything contained in any law for the time being in force, establish, authorise or continue or allow to be established, authorised or continued any place in the market area for the marketing of that agricultural produce.

(3) Subject to the provisions of section 3, the State Government may, at any time by notification in the Official Gazette, exclude from a market area

5. Establishment of markets :-

(1) For every market area, there shall be established a principal market, and there may be established one or more subsidiary markets.

(2) The Director shall, as soon as possible after the issue of a notification under sub-section (1) of section 4, by a notification in the Official Gazette, establish any place (including any structure, enclosure, open place or locality in any market area to be the principal market for the marketing of the agricultural produce specified in that notification ; and may by the same notification, or by like notification, establish in any other like places in the market area, subsidiary markets for the marketing of such agricultural produce.

CHAPTER 2

Marketing of agricultural produce

6. Regulation of marketing of agricultural produce :-

(1) Subject to the provisions of this section and of the rules providing for regulating the marketing of agricultural produce in any place in the market area, no person shall, on and after the date on which the declaration is made under sub-section (1) of section 4, without, or otherwise than in conformity with the terms and conditions of, a licence (granted by the Director when a Market Committee has not yet started functioning ; and in any other case, by the Market Committee) in this behalf, -

(a) use any place in the market area for the marketing of the declared agricultural produce, or

(b) operate in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of the declared agricultural produce.

(2) Nothing in sub-section (1) shall apply to sales by retail ; [sales by an agriculturist who sells his own produce ;] nor to sales by a person where he himself sells to another who buys for his personal consumption or the consumption of any member of his family.

7. Grant of licences :-

(1) Subject to rules made in that behalf, a Market Committee may, after making such inquiries as it deems fit, grant or renew a licence for the use of any place in the market area for marketing of the agricultural produce or for operating therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in

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

(2) Licences may be granted under sub-section (1) in such forms, for such periods, on such terms and conditions and restrictions (including any provisions for prohibiting brokers and commission agents from acting in any transaction both as buyer or seller, or on behalf of both the buyer and seller. and also provision for prohibiting brokers from acting in any transaction, except between a trader and trader, in respect of agricultural produce other than

poultry, cattle, sheep and goats and such other agricultural produce as may be prescribed, and 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 or market area) and on payment of fees. not being in excess of such maxima as may be prescribed [Provision may also be made for exempting any class of persons from payment of such fees on such terms and conditions as may be prescribed.]

8. Power to cancel or suspend licences :-

Subject to the provisions of sub-section (3), a Market Committee may, for reasons to be recorded in writing, suspend or cancel a licence-

- (a) if the licence has been obtained through wilful misrepresentation, or fraud ;
- (b) if the holder thereof or any servant or any one acting on his behalf with his express or implied permission, commits a breach of any of the terms or conditions of the licence ;
- (c) if the holder of the licence in combination with other holders of licences commits any act or abstains from carrying out his normal business in the market with the intention of wilfully obstructing, suspending or stopping the marketing of agricultural produce in the market area in consequence whereof the marketing of any produce has been obstructed, suspended or stopped;
- (d) if the holder of the licence has been adjudged an insolvent, and has not obtained his discharge ; or
- (e) if the holder is convicted of any offence under this Act.

(1A) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sub-section (3). the Chairman and the Secretary of a Market Committee acting jointly may, for reasons to be recorded by them in writing, by order suspend a licence for a period not exceeding 15 days for any reason for which a Market Committee may suspend the licence under sub-section (1)].

(2) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sub-section (3), the Director may. for reasons to be recorded in writing, by order suspend or cancel any licence granted or renewed under this Chapter.

(3) No licence shall be suspended or cancelled under this section, unless the holder thereof has been given a reasonable opportunity to show cause against such suspension or cancellation.

9. Any person aggrieved by an order :-

(a) of the Market Committee refusing to grant or renew a licence, or cancelling a licence, or suspending any licence, may, within thirty days from the date on which the order is communicated to him, appeal to the Director :

(b) of the Director refusing to grant or cancelling or suspending a licence may, within the like number of days, appeal to the State Government. The Director or, as the case may be, the State Government shall, on such appeal, make such order as is deemed just and proper:

Provided that, before dismissing an appeal, the Director or, as the case may be, the State Government, shall give such person a reasonable opportunity of being heard, and record in writing the reasons for such dismissal.

10. Provision for settlement of disputes :-

(1) For the purpose of settling dispute between buyers and sellers or their agents, including any disputes regarding the quality or weight or payment of any agricultural produce, or any matter in relation to the regulation of marketing of agricultural produce in the market area, the Market Committee of that area shall constitute * * * * "[Dispute Subcommittee]

[(2) The Dispute Sub-Committee shall consist of -

(a) the Vice-Chairman of the Market Committee, who shall be the Chairman of the Dispute Sub-Committee ;

(b) two members of a committee representing agriculturists whether elected or nominated;

(c) one member of a committee representing the traders whether elected or nominated ; and

(d) one member from amongst persons who, in the opinion of the Director, is expert in marketing of agricultural produce. The members referred to in clauses (b) and (c) shall be designated by the Market Committee and the member referred to in clause (d) shall be nominated by the Director. Where a dispute is in respect of

cotton then in the place of the member representing the traders, the Maharashtra State Cooperatives Cotton Growers Federation Limited shall appoint a member on the Dispute Sub-Committee one of its officers who shall not be lower in rank than that of a Sub-Zonal Manager of the said Federation. Where the State Government appoints any persons or authority other than the said Federation as its agent for sale or purchase of cotton, then such member shall be appointed by that agent.

(3) The Secretary of the Market Committee shall act as the Secretary of the, Dispute Sub-Committee. He shall have no right of vote.

(4) The Dispute Sub-Committee may make rules for the conduct of its business including the rules regarding payment of the amount of deposit (anamat), if any, to be made to it.

(5) The Dispute Sub-Committee shall record its decision in writing which shall be final.]

CHAPTER 3

Constitution of market committees.

11. Establishment of Market Committees :-

For every market area, there shall be established by the State Government a Market Committee consisting of a Chairman, a Vice-chairman and other members; and different Market Committees may be established for regulating the marketing of different kinds of agricultural produce for the same market area or any part thereof. The Market Committee shall have all such powers and discharge all such functions as are vested in it by or under this Act.

12. Incorporation of Market Committees :-

[(1)] Every Market Committee shall be a body corporate by the name of "the.....Agricultural Produce Market Committee" and shall have perpetual succession and a common seal, and may in its corporate name sue and be sued, and shall be competent to contract, acquire and hold

[Provided that, no immoveable or moveable property the value of which exceeds the prescribed limits shall be acquired or disposed of by the Market Committee without the prior permission of the Director.]

[(2) Notwithstanding anything contained in any law for the time

being in force, every Market Committee shall, for all purposes, be deemed to be a local authority.]

13. constitution of Market Committees. :-

(1) Subject to the provisions of sub-section (2). every Market Committee shall consist of the following *** members], namely :-

[(a) ten agriculturists residing in the market area (not being less than twenty-one years of age on the date specified from time to time by the Collector in this behalf] ; seven of whom shall be elected by members of the managing committees of the agricultural credit societies, and multipurpose co-operative societies within the meaning of the Maharashtra Co-operative Societies Act, 1960, and the rules made thereunder, functioning in the market area ; and three [(of whom one shall be a person belonging to Scheduled Castes or Scheduled Tribes] shall be elected by members of village panchayats functioning therein.]

(b) [two] shall be elected by traders and commission agents, holding licences to operate as such in the market area ;

(b-1) one member shall be elected by hamals and weighmen operating as such in the market area ;]

(c) one shall be the Chairman of the co-operative society doing business of processing or marketing of agricultural produce in the market area ; or in his absence a representative of the co-operative society elected by its managing committee :

Provided that, if there be more than one such co-operative societies in the market area, then the Chairman of any one of such co-operative societies or in his absence a representative, elected by the managing committees of such societies;

(d) one shall be the Chairman of the Panchayat Samiti within the jurisdiction of which the market area or major portion thereof is situated or the representative elected by such Panchayat Samiti;

(e) one shall be the President or Sarpanch of the local authority (other than a Panchayat Samiti) within the jurisdiction of which the principal market is situated or the representative elected by such local authority :

[(f) the Deputy Registrar of Co-operative Societies of the district or his representative, who shall have no right to vote ;j

(g) the Assistant Cotton Extension Officer or, where there is no such officer, the District Agricultural Officer of the Department of Agriculture ; neither of them shall have the right to vote.

[(1A)

(a) Notwithstanding anything contained in sub-section (1) of this section or in section 4 or other provisions of this Act, the area comprising Greater Bombay and Turbhe Village in Thane Taluka of Thane District [and such other area or areas as may be specified by the State Government by notification in the Official Gazette from time to time ;] (hereinafter referred to as "the Bombay market area"), shall be deemed to be a market area for the purposes of this Act, and the Market Committee for that area to be called by the name of the Bombay Agricultural Produce Market Committee shall, subject to the provisions of sub-section (2), consist of the following [nineteen members,] namely :-

(i) twelve representatives of agriculturists elected by the agriculturist members of the other Agricultural Produce Market Committees in the State, [two such members] to be elected from each Revenue Division;

[(ii) two representatives, elected by the traders and commission agents, holding licences to operate as such in the Bombay market area ;

[(iia) one representative elected by hamals and weighmen operating as such in the market area ;]

[(iii) one representative of the Maharashtra State Agricultural Marketing Board ;]

(iv) one representative of the Municipal Corporation of Greater Bombay ;

(v) the Metropolitan Commissioner appointed under the Bombay Metropolitan Region Development Authority Act, 1974 ;

(vi) the Managing Director of the Maharashtra State Co-operative Marketing Federation. Limited, Bombay, or his nominee ;

(vii) the Director of the Agricultural Marketing, Maharashtra State. Pune, or his representative.

(viii)*****

(ix)*****

(b) A person who is a member of the Market Committee under [sub- clauses (v), (vi), or (vii)] of clause (a) shall have a right to take part in the discussions of the Committee, but shall not have a right to vote at a meeting thereof.

(2) When a Market Committee is constituted for the first time [whether under sub-section (1) or (1A),] all the members thereof and the Chairman and Vice-chairman shall be nominated by the State Government. [Provided that, the Chairman and Vice-Chairman shall be so nominated from amongst the agriculturists members.]

14. Election and term of office of members :-

(1) Subject to the provisions of sub-section (2), the members shall be elected in the manner prescribed by rules. Such rules may provide also for the determination of constituencies, the preparation and maintenance of the list of voters, persons qualified to be elected, disqualification's for being chosen as, and for being a member, the right to vote, the payment of deposit and its forfeiture, the determination of election disputes and all matters ancillary thereto including provision regarding election expenses.

(2) If for any reason any person, co-operative society or its managing committee or a Panchayat Samiti or local authority fails to elect any member, the Directors shall give notice in writing to them requiring them to elect members within one month from the date of the notice ; and on the failure again to elect members within the aforesaid period, the Director shall appoint on behalf of such persons, co-operative society, committee, Panchayat Samiti or the local authority the required number or persons who are qualified to be elected under sub-section (1) [or (1 A)] of section 13.

(3) Except as otherwise provided in this Act, the members of a Market Committee (not being a committee constituted for the first time) shall hold office for a period of [five years], and the members of a Committee constituted for the first time shall hold office for a period of two years :

Provided that, where the general election of members of a Committee could not be held for reasons beyond the control of the Committee before expiry of the term of office of its members as

aforesaid, the State Government may, by order in the Official Gazette, extend from time to time, the term of office of any such Committee, so however, that the period for which the term of office is so extended shall not exceed the period of one year in the aggregate.]

(4)

(a) As soon as possible, after the result of any by-election or subject to the provisions of sub-clause (b), all the results of a general election, are available, the Collector shall publish or caused to be published the name or names of elected member or members of a Committee in the Official Gazette and also in a newspaper in the Marathi language circulating in the market area. The publication of the name or names in a newspaper as aforesaid shall, for the purposes of this section, be deemed to be sufficient publication of the name or names of the elected member or member of the Market Committee.

(b) If at a general election the names of any persons to be elected under sub-section (1) or (1A) of section 13 cannot for any reason be published as aforesaid, and if with the available election results, the Committee will consist of not less than twelve members, then the Collector shall publish the names of these members in the Official Gazette and also in a newspaper as aforesaid.

(c) As regards the remaining elections, the Collector shall subsequently publish the names of members in the like manner as and when the results of such elections are available, or as the case may be. on failure to elect, the names of persons duly appointed under sub-section (2), if any.

(d) After every general election, upon the publication of the names of all the members of a Committee under clause (a), or as the case may be, the publication of such names as would render the Committee to consist of not less than twelve members as aforesaid, in a newspaper under this sub-section, the Market Committee shall be deemed to be duly constituted.]

14A. Election Fund :-

(1) The superintendence, direction and control of the preparation of the list of voters for. and conduct of, all elections to Market Committees shall be vested in the Collector ; and for the purpose of preparing the list of voters and conduct of elections, every Market

Committee shall constitute an Election Fund consisting of an amount equal to five per cent of all monies received by it by way of fees under this Act during any year or two thousand rupees per annum, whichever is less.

(2) The Election Fund shall be invested in such manner as the Director may direct, regard being had to the elections to be held during the year, and the necessity to have the monies available from the fund for the preparation of the list of voters or for the conduct of such elections or for both .

(3) Every Market Committee shall inform the Collector of the amount standing to the credit of the Election Fund every year not later than the 31st day of October, and also at any other times when required by the Collector so to do .

(4) Whenever the list of voters is to be prepared or revised or any elections to the Market Committee are to be held, the Collector shall in writing inform the Market Committee of the same, and require the Market Committee to deposit with him such amount and before such date as may be specified in writing for meeting expenses for preparing or revising the list, or as the case may be, for conducting the elections or of both.

(5) The Collector shall after the preparation or revision of list of voters, or after the declaration of the result of the elections, draw up statement of expenditure incurred in preparing or revising such list, or in conducting the elections, and shall, within a period of three months from such preparation or revision or result, forward the same to the Market Committee for information. The balance remaining unspent, if any , shall be refunded to the Market Committee. If the expenditure incurred exceeds the amount of deposit, the Collector shall call upon the Market Committee to pay the excess amount as specified by him within one month from the date of receipt of the direction from him, and the Market Committee shall comply with such direction.]

[(6) In the case of the Bombay Agricultural Produce Market Committee for the Bombay market area, the powers and duties of the Collector for the purposes of this section shall be exercised and performed by the Collector of Bombay.]

15. Commencement of term of office of members :-

(1) The term of office of members of a Market Committee shall be

deemed to commence on the date of the first meeting of the Market Committee at which business is transacted :

[Provided that, a persons who is a member by virtue of his being a representative, or holding office, or holding licence belonging to any of the categories of members referred to in sub-section (1) or (1A) of section 13, shall hold office as such member so long only as he continues to be such representative or to hold such office or such licence and on his ceasing to be such representative or holding such office or licence he shall cease to be such member and he shall be deemed to have vacated his office.

Explanation :- For the purposes of this section, the date of the first meeting of the Market Committee at which business is transacted shall be the date of the meeting called by the Collector or the authorised officer under sub-section (1) of section 22 for the election of the Chairman and Vice- Chairman.]

(2) * * * * * * *

(3) The term of office of outgoing members shall be deemed to extend to, and expire with, the date immediately preceding the date of such first meeting.

15A. . :-

(1) Notwithstanding anything contained in sub-section (3) of section 15 or any other provisions of this Act, where the term of office of two years, five years, or as the case may be, the extended term of office, if any under the proviso to sub-section (3) of section 14 * * * * of the members of any Market Committee, has expired, the Director or any Officer, not below the rank of the District Deputy Registrar of Co-operative Societies, authorised by him shall, by order in writing, direct that -

(a) all members of the Committee shall, as from the date specified in the order, cease to hold and vacate their offices as members or otherwise ; and

(b) the person appointed by the Director or such authorised officer, from time to time, shall be the Administrator to manage the affairs of the Committee, during the period from the date specified in the order upto the day on which the first meeting of the reconstituted Committee after the election is held, where there is a quorum (hereinafter in this section referred to as "the said period"). Such

election shall be held within a period of [six months] from the date the Administrator assumes office.

[Provided that, this period of [six months] may be extended, from time to time, by the State Government, in exceptional circumstances, to and period not exceeding [one year] in the aggregate, by notification in the Office Gazette, for reasons, which shall be stated in the notification],

[(1A) Notwithstanding anything contained in clause (b) of subsection

(1), as it stood before the commencement of the Maharashtra Agricultural Produce Marketing (Regulation)(Amendment and Validation) Act, 1985, where the Administrator has been appointed to manage the affairs of any Committee but election to such Committee has not been held within a period of one year as required under clause (b) of sub-section (I), the period of holding election to such Committee shall be extended and shall be deemed always to have been extended upto. and inclusive of, the 31st day of March 1986.]

(2) During the said period, all the powers and duties of the Committee and its various authorities under this Act and the rules and bye- laws made thereunder or any other law for the time being in force shall be exercised and performed by the Administrator.

(3) The Administrator may delegate any of his powers and duties to any officer for the time being serving under him or under the Committee.

(4) The Administrator shall receive such remuneration from the Market Fund as the Director or authorised officer may, from time to time, by general or special order, determine.]

16. . :-

(1) Any member, of the Market Committee may resign his office by writing under his hand addressed to the Chairman, and the Chairman may resign his office of member by writing under his hand addressed to the Director. The resignation shall take effect from the date it is accepted by the Chairman, or as the case may be, the Director.

(2) If at any time it appears to the State Government that any Market Committee by reason of the resignation of all or a majority

of the members thereof, is unable to discharge the functions conferred or imposed upon it by or under this Act, the State Government may, by order published in the Official Gazette, nominate persons to fill the vacancies of the members who have resigned ; but the persons so nominated shall hold office only for the residue of the term of the members in whose place they are nominated or until the vacancies are duly filled in by election whichever is earlier.

17. Removal of member for misconduct :-

The State Government may on the recommendation of the Market Committee supported by not less than [ten members] present and voting at a meeting remove any member if he 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, or is adjudged an insolvent:

Provided that, no such member shall be removed from office unless he has been given reasonable opportunity of being heard by the State Government.

18. Casual vacancies :-

Subject to the provisions of sub-section (2) of section 14. in the event of a vacancy occurring on account of death, resignation or removal of a member, or through a member becoming incapable of acting previous to the expiry of his term of office, or otherwise, the Chairman shall forthwith communicate the occurrence to the Director and the vacancy shall be filled as soon as conveniently may be, by the election, appointment or as the case may be, nomination of a person thereto, who shall hold office so long only as the member in whose place he is elected, appointed or nominated would have held it, if the vacancy had not occurred :

Provided that, if the vacancy occurs within six months preceding the date on which the term of office of the member expires, the vacancy shall, unless the State Government directs otherwise, not be filled.

19. Chairman and Vice-Chair man. :-

(1) Subject to the provisions of sub-section (2) of section 13, every Market Committee shall be presided over by a Chairman, who shall be elected by the Committee from among its [elected agriculturist members]. The Committee shall also elect one of its [elected agriculturist members] to be the Vice-Chairman.

(2) Notwithstanding anything contained in sub-section (1), the Chairman or, as the case may be, Vice-Chairman holding office as such on the date of commencement of the Maharashtra Agricultural Produce Marketing (Regulation) (Amendment) Act, 1987 shall continue to hold office as such Chairman or Vice-Chairman irrespective of the category of member to which he belongs until expiry of his term of office unless he resigns or is disqualified or removed earlier.

(3) Notwithstanding anything contained in sub-section (2), a member. Chairman or Vice-Chairman shall, not continue to hold office as such member. Chairman or Vice-Chairman of more than one Agricultural Produce Market Committees on the date of commencement of the Maharashtra Agricultural Produce Marketing (Regulation) (Amendment) Act, 1987.].

20. Term of office of Chairman and Vice-Chairman :-

The Chairman and Vice-Chairman shall hold office for such period as may be prescribed.

21. Chairman and Vice-Chairman to hold office until their successors enter upon office :-

The Chairman and Vice-Chairman shall, notwithstanding the expiration of their term of office, continue to hold office, until their successors enter upon their office 62[or the Administrator appointed under section 15A assumes office.]

21A. Honorarium to Chairman and Vice-Chairman :-

There shall be paid to the Chairman and Vice-Chairman an honorarium of such amount as the Director may, having regard to the finances of the Market Committee specify ; so however that the total amount of honorarium to be paid to both [does not exceed the limit as may be prescribed].]

22. Procedure for election of Chairman and Vice-Chairman :-

(1) On the constitution of a Market Committee after a general election or otherwise, the Collector or the officer not lower in rank than that of a Deputy Collector as the Collector may authorise in this behalf (hereinafter in this section referred to as "the authorised officer ") shall, within 30 days from the publication of the result of the general election under clause (a) or as the case may be, under clause (b) of sub-section (4) of section 14, call a

meeting for the election of the Chairman and the Vice-Chairman.]

(2) Such meeting shall be presided over by the [Collector or the authorised officer. The Collector or such authorised officer] shall, when

(3) If, in the election of a Chairman or Vice-Chairman, there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the officer presiding in such manner as he may determine .

(4) In the event of a dispute arising as to the validity of the election of a Chairman or Vice-Chairman, the [Collector] if he is the presiding officer, shall decide the dispute himself; and in any other case the officer presiding shall refer the dispute to the [Collector] for decision. The decision of the [Collector], subject to an appeal to the [Commissioner appointed under section 6 of the Maharashtra Land Revenue Code, 1966] shall be final ; and no suit or other proceeding shall lie in any court in respect of any such decision.

23. Resignation of Chairman and Vice-Chairman :-

(1) The Chairman may resign his office by writing under his hand addressed to the Director; and the resignation shall take effect from the date it is accepted.

(2) The Vice-Chairman may resign his office by writing under his hand addressed to the Chairman ; and the resignation shall take effect from the date it is accepted.

23A. Motion of no-confidence against Chairman or Vice-Chairman :-

(1) A Chairman or a Vice-Chairman shall cease forthwith to be Chairman or Vice-Chairman, as the case may be, if the Market Committee by a resolution passed by a majority of not less than two-third of the total number of members (excluding the members who have no right to vote) at a special meeting so decides .

(2) The requisition for such special meeting shall be signed by not less than one-half of the total number of members (excluding the members who have no right to vote) and shall be sent to the Collector under intimation to the Director.

(3) The Collector shall, within fifteen days from the date of receipt of the requisition under sub-section (2), convene a special meeting

of the Committee :

Provided that, when the Collector convenes such special meeting of the Committee, he shall give intimation thereof to the Chairman, or as the case may be, Vice-Chairman and also to the Director.

(4)

(a) A special meeting to consider a resolution under sub-section (1) shall be presided over by the Collector or the officer authorised by him in this behalf, but the Collector or such officer or the Director (if present) shall have no right to vote at such meeting.

(b) The members of the Committee who have no right to vote may take part in the discussions but shall not vote.]

(5) If the motion of no confidence is not carried as aforesaid or if the meeting could not be held for want of quorum, no such requisition for considering afresh such motion expressing want of confidence in the same Chairman or Vice-Chairman shall be made until after the expiry of six months from the date of such meeting.

24. Consequences of absence of Chairman without leave :-

Subject to rules made by the State Government in this behalf, a Chairman who absents himself from three consecutive meetings of the Committee without leave of the Market Committee shall cease to be Chairman.

25. Vacancies in office of Chairman and Vice-chairman to be filled up :-

(1) In the event of a vacancy in the office of the Chairman or Vice-Chairman by reason of death, resignation, removal or otherwise, the vacancy shall subject to the provisions of section 19, be filled as soon as possible by election if elected, or by nomination if nominated of a Chairman or Vice-Chairman.

(2) Every Chairman or Vice-Chairman elected or nominated under this section to fill a casual vacancy shall hold office so long only as the Chairman or Vice-Chairman in whose place he is elected, or as the case may be, nominated would have held it if the vacancy had not occurred.

26. Refusal to hand over charges to new Chairman or Vice-Chairman :-

(1) On the election or nomination of a new Chairman or Vice-

Chairman, the outgoing Chairman or Vice-Chairman in whose place the new Chairman or Vice-Chairman has been elected or nominated shall forthwith hand over charge of his office to such new Chairman or Vice-Chairman, as the case may be.

(2) If the outgoing Chairman or Vice-Chairman fails or refuses to hand over charge of his office as required under sub-section (1), the Director or any officer empowered by the Director in this behalf may, by order in writing, direct the Chairman or the Vice-Chairman as the case may be, to forthwith hand over charge of his office and all papers and property of the Market Committee, if any, in his possession as such Chairman or Vice-Chairman to the new Chairman or Vice-Chairman.

(3) If the outgoing Chairman or Vice-Chairman to whom a direction has been issued under sub-section (2) does not comply with such direction, the Director or any person authorized by him in that behalf may apply to the Executive Magistrate within whose jurisdiction the Committee is functioning

(4) On receipt of an application under sub-section (3). the Magistrate may authorize any police officer, not below the rank of a Sub-Inspector, to enter and search any place where the records and property are kept or likely to be kept and to seize them and hand over possession thereof to the new Chairman or Vice-Chairman, as the case may be.

27. Meeting, etc., of Market Committee :-

The meetings, quorum and procedure of the Market Committee shall be regulated in accordance with the bye-laws made for the purposes.

28. Members to act during vacancy ; acts of Committee. etc., not to be invalidated by informalities :-

(1) During any vacancy in a Market Committee the continuing members may act as if no vacancy had occurred.

(2) A Market Committee shall have power to act, notwithstanding any vacancy in the membership or any defect in the constitution thereof; and such proceedings of the Committee shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

29. Powers and duties of Market Committee :-

(1) It shall be the duty of a Market Committee to implement the provisions of this Act, the rules and bye-laws made thereunder in the market area; to provide such facilities for marketing of agricultural produce therein as the Director [the State Marketing Board or the State Government, as the case may be,] may, from time to time, direct ; do such other acts as may be required in relation to the superintendence, direction and control of markets or for regulating marketing of agricultural produce in any place in the market area, and for purposes connected with the matters aforesaid, and for that purpose may exercise such powers and perform such duties and discharge such functions as may be provided by or under this Act.

(2) Without prejudice to the generality of the foregoing provision, a Market Committee may-

(i) regulate the entry of persons and of vehicular traffic into the market;

(ii) supervise the behaviour of those who enter the market for transacting business ;

(iii) grant, renew, refuse, suspend or cancel licence ;

(iv) maintain and manage the market including admissions to, and conditions for use of, markets within the market area ;

(v) provide for necessary facilities for the marketing of agricultural produce within the market in the market area ;

(vi) regulate and supervise the auctions of notified agricultural produce in accordance with the provisions and procedure laid down under the rules made under this Act or the bye-laws of the Market Committee ;

(vii) regulate the making, carrying out and enforcement or cancellation of sales, weighment, delivery, payment to be made in respect thereof and all other matters relating to the marketing of notified agricultural produce in the prescribed manner ;

(viii) take all possible steps to prevent adulteration and to promote and organise grading and standardization of the agricultural produce ;

- (ix) take measures for the prevention of purchases and sales below the minimum support prices as fixed by the Government from time to time ;
- (x) collect, maintain, disseminate and supply information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce including information relating to crops, statistics and marketing intelligence as may be required by the Director ;
- (xi) arrange to obtain fitness (health) certificate from Veterinary Doctor in respect of animals, cattle, birds, etc., which are brought or sold in the Market area;
- (xii) carry out publicity about the benefits of regulation, system of transactions, facilities provided in the market area, through such media as, in the opinion of the Market Committee, may be effective or necessary ;
- (xiii) provide for settling disputes arising out of any kind of transactions connected with the marketing of agricultural produce and all matters ancillary thereto ;
- (xiv) subject to the provisions of section 12, acquire, hold or dispose of any moveable or immoveable property for the purpose of efficiently carrying out its duties ;
- (xv) institute or defend any suit, prosecution, action, proceeding, application or arbitration and compromise such suit, action, proceeding, application or arbitration;
- (xvi) make arrangement for holding of elections of the .Market Committee in the prescribed manner ;
- (xvii) levy, take, recover and receive charges, fees, rates and other sums or money to which the Market Committee is entitled ;
- (xviii) subject to approval of the Director, obtain loans, subsidies, subventions from the State and Central Government or any financing agency, for providing warehousing and marketing facilities in the market;
- (xix) subject to the approval of the State Marketing Board, prepare budgets, supplementary budgets, make reappropriations in the budget and incur expenditure accordingly;
- (xx) keep a set of standard weights and measures in the market

against which weightment and measurement may be checked ;

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

(xxii) employ the necessary number of officers and servants for the efficient implementation of the provisions of this Act, rules and bye-laws of the Market Committee ;

(xxiii) pay salaries and other emoluments, pension, leave allowance, gratuities, compassionate allowance, contributions towards leave allowance, pension or provident fund of the officers and servants employed by the Market Committee in the manner prescribed :

(xxiv) administer Market Fund referred to in section 36 of this Act and maintain the account thereof and get the same audited in the prescribed manner ;

(xxv) prosecute persons for violating the provisions of this Act, the rules and the bye-laws and compound offences as provided under section 52A ;

(xxvi) provide storage and warehousing facilities in the market area ;

(xxvii) with the prior sanction of the State Government or the State Marketing Board or the Director undertake any other activity conducive to the promotion of regulation of agricultural marketing ;

(xviii) arrange for the collection of -

(a) such agricultural produce in the market area in which all trade therein is to be carried on exclusively by the State Government by or under any law in force for that purpose, or

(b) such other agricultural produce in the market area, as the State Government may from time to time, notify in the official Gazette (hereinafter referred to as the " notified produce.")]

30. Appointment of sub-committees; delegation of power :-

A Market Committee may appoint one or more sub-committees consisting of one or more of its members (including any persons co-opted by the committee with the approval of the Director or of any officer authorised by the Director in this behalf) and may delegate to such sub-committee such of its powers or duties as it may think

fit.[The sub-committee so appointed shall function under the superintendence, guidance, direction and control of the Market Committee.]

30A. Power of the Market Committee to open collection centre for marketing of notified produce, provisions for receipt and payment by purchaser :-

(1) A Market Committee duly authorised by the State Government for the purposes may by an order in writing open collection centres for collecting thereat the notified produce specified in such order, The Market Committee shall publish such order for the information of the public in such manner as it deems fit.

(2) Where any person wishes to sell any notified produce in a market area, he shall tender all such produce only at the collection centre established for the purpose under sub-section (1):

Provided that, agricultural produce notified under sub-clause (ii) of clause (g) of sub-section (2) of section 29 may be tendered through a commission agent.

(3) The Market Committee shall, on the sale of such produce, get it weighed, measured, or as the case may be, counted forthwith, and arrange for issuing a receipt therefor to the person who has tendered the produce at the collection centre for sale or, as the case may be, through the commission agent or any agency fixed by the State Government where tender through an agent is allowed, and shall also arrange to give a copy of the receipt to the purchaser, the co-operative society, if any, and where a receipt is given through such agent or agency, if any, also to the Market Committee.

(4) Such receipt shall contain the following particulars, that is to say-

(i) the name of the collection centre,

(ii) the name of the tenderer,

(iii) the name of the purchaser,

(iv) the name of the commission agent, if any,

(v) the name and quantity of notified produce, the weight, measure or number thereof and charges therefor.

- (vi) grade of the notified produce, if any, and the rate,
- (vii) the amount of the dues of the Market Committee to be paid by the purchaser,
- (viii) the amount of dues to be paid by the tenderer, to the commission agent by way of his commission, if any, and such other market charges, as are duly authorised by the Market Committee,
- (ix) the amount of dues to be paid by the tenderer to a co-operative society, under section 48 A of the Maharashtra Co-operative Societies Act, 1960,
- (x) the amount of advance price received by the tenderer, if any, in respect of agricultural produce notified under sub-clause (i) of clause (gl) of sub-section (2) of section 29,
- (xi) the amount to be actually paid to the tenderer after deducting the amounts, if any, falling under entries (vii), (viii), (ix) and (x), and
- (xii) the total amount to be paid by the purchaser in respect of the notified produce purchased by him.

(5) The dues to a Market Committee shall consist of fees to be levied and collected from a purchaser by or under this Act.

(6) The purchaser shall, on receiving a copy of the receipt, pay forthwith the total amount to be paid by him as recorded in the receipt by drawing two cheques, one in favour of the Market Committee and another in favour of the tenderer. Both the cheques shall be payable on presentation. The cheque drawn in favour of the Market Committee shall be for an amount equal to the amounts referred to in clauses (vii), (viii), (ix) and (x) under subsection (4); and the cheque drawn in favour of the tenderer shall be for an amount equal to the amount referred to in clause (xi) of subsection (4). The Market Committee, on receipt of the cheque, shall arrange to pay to the commission agent and the co-operative society, if any, the amount of money recorded against each of them in the receipt and credit the balance due to it to the market fund :
]

[Provided that, where the purchaser is the State Government or an agent appointed by it to make purchases of any notified produce on its behalf under any law for the time being in force, then the amount payable to the tenderer may be paid either in cash or by

crediting the amount into the account of the tenderer in a co-operative bank.]

[Explanation - For the purposes of this section, section 31 and section 34A, 'purchaser' shall include any person who pays the purchase price of any notified produce or agricultural produce, as the case may be, tendered for sale, or by whom payment of such price is made, whether on his own account, or as an agent or on behalf of another person.]

31. Power of Market Committee to levy fees [and rates of commission (adat) :-

(1) It shall be competent to a Market Committee to levy and collect fees in the prescribed manner at such rates as may be decided by it (but subject to the minimum and maximum rates which may be fixed by the State Government by notification in the Official Gazette in that behalf), from every purchaser of agricultural produce marketed in the market area :

Provided that, when any agricultural produce brought in any market area for the purposes of processing only * * * is not processed 78 * * * within thirty days from the date of its arrival therein, it shall, until the contrary is proved, be presumed to have been marketed in the market area, and shall be liable for the levy of fees under this section, as if it had been so marketed :

["Provided further that -

(a) any agricultural produce brought in any market area for the exclusive purpose of export shall be exempted for the payment of fees and supervision cost, if such exporter or his duly authorised agent presents the letter of credit or confirmed order of export or confirmed export order consignment, whichever is relevant or applicable, at the time of entry of such produce in the market area, to the officer authorised in this behalf by the market committee concerned along with a declaration in that behalf, in such form as the State Government may, by order from time to time, direct;

(b) if such exporter fails to submit a certified copy of the bill of lading or the air-freight bill or any other documents as may be specified by the State Government as a proof of such export, within ninety days from the date of entry of the agricultural produce in the market area, such agricultural produce shall be deemed to have been marketed within the market area and he shall forthwith pay

the market fees under this section and shall also pay the supervision cost under section 34A on such agricultural produce, along with eighteen per cent interest on the total amount due and payable as the market fees and supervision cost, from the date of bringing of such produce in the market area."];

Provided further that, no such fees shall be levied and collected in the same market area in relation to agricultural produce in respect of which fees [or in relation to declared agricultural produce purchased by person engaged in industries carried on without the aid of any machinery or labour in any market area.]

(2) It shall be competent to a Market Committee to fix, with the prior approval of the State Government, the rate of commission (adat) to be charged by the commission agents in respect of an agricultural produce or class of agricultural-produce marketed in the market area.

(3) It shall be the duty of the buyer, commission agent, processor and trader to pay the market fee fixed immediately after weighment or measurement of the agricultural produce is done. The buyer, the commission agent, processor or trader who fails to pay the market fee as fixed above shall be liable to pay a penalty as prescribed in addition to such fees.

(4) Notwithstanding anything contained in this Act or any other law for the time being in force or in any agreement, it shall be competent to a Market Committee to recover the amount of fees along with the amount of penalty which is due to a Market Committee from a buyer, commission agent, processor or trader -

(a) from the amount of deposit kept with the Market Committee by the buyer, commission agent, processor or trader, as the case may be :

(b) from the Bank which gives the guarantee to such buyer, commission agent, processor or trader, and the Bank shall, on demand by the Market Committee, pay the amount so demanded].

32. Power to borrow :-

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

(2) The Market Committee may, for the purpose of meeting the expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the State Government on such terms and conditions as the State Government may determine .

32A. Power to order production and power of entry, inspection, search and seizure :-

(1) Any such officer or servant of the Market Committee, as the Market Committee may specify in this behalf (hereinafter referred to as " the specified officer or servant"), for the purposes of this Act, require any person carrying on business in the market area in any agricultural produce to produce before him the accounts and other documents and to furnish any information relating to the stocks of \such agricultural produce, or purchases, sales and deliveries of such agricultural produce by such person and also other information relating to payment of the market fees and payment to the seller by such person.

(2) All accounts and registers maintained by any person in the ordinary course of business in the market area in any agricultural produce and

(3) Any officer of the State Government or of the Agricultural Produce Market Committee, as the State Government may, by notification in the Official Gazette, authorise in this behalf (hereinafter referred to as "the authorised officer"), has reason to believe, -

(a) that any person carrying on business in any agricultural produce in the market area within the jurisdiction of the said Market Committee -

(i) is attempting to evade or has evaded the payment of fees or charges payable by him under this Act, rules or bye-laws ; or

(ii) has committed any act contrary to the provisions of this Act. rules or bye-laws ; or

(iii) on having been served with a notice to produce or cause to be produced any books of accounts or other documents or articles or registers or things relating to the business in any agricultural produce, has failed to do so ; or

(b) that any person has purchased any agricultural produce in

contravention of the provisions of this Act or the rules or the bye-laws, then the authorised officer may -

(i) enter and search any place, building, warehouse, godown, vessel, cart or vehicle where he has reason to suspect that such person has kept or keeps any such books of accounts, documents, articles, registers or things;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (I), where the keys thereof are not available ;

(iii) search any person who has got out of, or is about to get into, or is in any place or premises, if the authorised officer has reason to suspect that such person has secreted about his person any such books of accounts, other documents, articles, registers or things;

(iv) seize any such books of accounts, other documents, articles, registers or things found as a result of any such search ;

(v) place marks of identification on any books of accounts or other documents, articles, registers or things and make or cause to be made, extracts or copies therefrom ;

(vi) make a note or an inventory of any such books of accounts, other documents, articles, registers or things seized.

(4) The authorised officer may requisition the services of any police officer to assist him for all or any of the purposes specified in sub-section (3) and it shall be the duty of every police officer to comply with such requisition.

(5) The authorised officer may, where it is not practicable to seize any such books of accounts, other documents, articles, registers or things or vehicles under sub-section (3), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with such order.

(6) Where any books of accounts, other documents, articles, registers or things are found in the possession or control of any person in the course of a search, it may be presumed -

(i) that such books of accounts, other documents, articles, registers

or things found in the possession or control of any person in the course of search, belong to such person ;

(ii) that the contents of such books of accounts and other documents are true ; and

(iii) that the signature and every other part of such books of accounts and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested by the person by whom it purports to have been so executed or attested.

(7) The person from whose custody any books of accounts, other documents articles, registers or things are seized under the foregoing subsections, may make copies thereof or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

(8) The books of accounts, documents, articles, registers or things or vehicle so seized shall not be retained by the authorised officer for a period exceeding ninety days from the date of seizure : Provided further that, if any articles or things so seized are of perishable nature, they shall not be retained by the authorised officer for more than twelve hours from the time of seizure.

(9) Notwithstanding anything contained in sub-section (8) -

(a) where such articles or things comprise agricultural produce and are transported within the market area in such vehicles which are so seized ; and market fees or any other dues in respect of such agricultural produce are not paid, such vehicle and such agricultural produce may be retained until the market fees and supervision charges along with penalty equal to three times the amount of such fees and charges and the actual cost of such seizure, are paid and if the amount of such fees, charges, penalty and cost are not paid even after demand thereof in writing, then the same may be recovered by sale of such agricultural produce by auction and the balance of amount, if any, left thereafter, may be returned to the person from whom they are seized ;

(b) where such books of accounts, documents, articles, registers or things or vehicles and the agricultural produce so seized are

required for the purpose of prosecution launched for an offence of contravention of the provisions of this Act or the rules or the bye-laws, they may be retained until they are ordered to be released by the Court trying such offence ;

(c) where such articles or things which comprise agricultural produce which are of perishable nature and the market fees and supervision charges along with penalty equal to three times the amount of such fees and charges and the actual cost of such seizure are not paid, then instead of returning the same to the person from whom they are seized, such market fees, charges, penalty and cost in respect thereof may be recovered by sale of such agricultural produce by auction and the balance of amount, if any, left thereafter, may be returned to such person.

(10) The authorised officer shall carry out the search and seizure under this section with due regard to the honour and dignity of any inmates in the building, place or vehicle, and exercise the minimum force in obtaining ingress into the building, place or vehicle to be searched where free ingress thereto is not available, and ensure safe custody of any books of accounts, documents, articles, registers or things or vehicle so seized.

(11) Without prejudice to the foregoing provisions, the provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so far as may be, apply to the searches and seizures under this section."

32B. Power to write off loss, shortage or fee, etc. Which is irrecoverable :-

A market Committee may write off any fee or other amount whatsoever due to it or whenever any loss of the Committee in money or store or other property occurs through any fraud or negligence of any person or for any other cause and, in the opinion of the Market Committee, the fee, amount, property or money is found to be irrecoverable or should be remitted, the Market Committee may order to write off or remit such fee, amount, property or money as lost or irrecoverable, as the case may be :

Provided that, where the amount due or the value of store or other property exceeds five hundred rupees, the Market Committee shall, before making any order to write off or remit as aforesaid obtain the sanction of the Director.

32C. Power to make alternative arrangements during

strikes :-

If any licensee or class of licensees dealing in any agricultural produce, whether perishable or not, go on strike or join any strike and the functioning of the market is disrupted, it shall be competent to the Market Committee to make such arrangements as are necessary in its opinion for running the market. Such arrangements may include the purchasing, storage or transport of the agricultural produce by the Market Committee itself with the approval of the Director .

32D. Power to take steps to prevent purchases of agricultural produce below support price :-

It shall be the duty of the Market Committee to make such arrangements and to take such steps as may be prescribed to prevent purchase of agricultural produce in the market area below the support price fixed by the Government.].

33. Execution of contracts :-

(1) Every contract entered into by the Market Committee shall be in writing and shall be signed on behalf of the Market Committee by its Chairman, or in the absence of the Chairman by the Vice-Chairman, and two other members of the Committee.

(2) No contract other than a contract executed as provided in subsection (1) shall be binding on the Market Committee .

34. Certain disputes regarding construction of rules, etc., about weights and measures to be decided by Market Committee :-

(1) Notwithstanding anything contained in the Bombay Weights and Measures (Enforcement) Act, 1958, if any dispute arises between an Inspector appointed under that Act and any person interested as to the meaning or construction of any rule made under that Act or as to the method of verifying, re-verifying, adjusting or stamping any weight or measure or weighing or measuring instrument, in any market area, such dispute may, at the request of the party interested or by the Inspector of his own accord, be referred to the Market Committee ; and the decision of the Market Committee shall, subject to the provisions of subsection (2), be final and shall be deemed to have been given under section 20 of the Bombay Weights and Measures (Enforcement) Act, 1958.

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

CHAPTER 4A

Cost of supervision

34A. Supervision over purchase of agricultural produce in any market or market area and payment of cost of supervision by purchasers :-

(1) The State Government may, by general or special order, direct that the purchase of agricultural produce, the marketing of which is regulated in any market or market area under this Act, shall be under the supervision of such staff appointed by the State Government as it may deem to be necessary; and subject to the provisions of this Chapter, the cost of such supervision shall be paid to the State Government by the person purchasing such produce in such market or market area.

(2) The cost to be paid by a purchaser shall be determined from time to time by the State Government and notified in the market or market area (in such manner as the State Government may deem fit), so however that the amount of the cost does not exceed five paise per hundred rupees of the

34B. . :-

(1) The cost of supervision shall be collected by the Market Committee in the same manner in which the fee levied by it under section 31 is collected.

(2) The cost of supervision collected by a Market Committee shall be paid to the State Government in the prescribed manner within a period of fifteen days from the close of the month in which such cost is collected.

34C. Default of Market Committee in collecting or paying cost of supervision Power of Market Committee to employ staff :-

If a Market Committee makes default in the collection or payment to the State Government of any sum or part thereof due in respect of the cost of supervision, the Director may direct that the said sum or part thereof, as the case may be, together with penalty equal to one per cent of such sum or part, shall be recovered from the

Market Committee as an arrear of land revenue under section 57.

CHAPTER 5

Officers and servants of Market Committees

35. Power of market committee in collectiong ofr paying cost of supervision :-

(1) A Market Committee may employ a secretary and such other officers and servants as may be necessary for the management of the market, for the collection, maintenance, dissemination and supply of information relating to crop, statistics and marketing intelligence and for carrying out its duties under the Act; and shall pay such officers and servants such salaries and allowances, pension or gratuity and shall contribute to any provident fund and pension fund which may be established for the benefit of such employees :

Provided that, all posts other than that of a secretary shall, subject to such general or special directions which the Director may issue in this behalf, be created only with the prior approval of the Director.

(2) The Secretary of the Market Committee shall be the Chief Executive Officer and the custodian of the records and properties of the market committee and shall exercise such powers as are conferred and perform such duties as are imposed upon him by or under this Act.

(3) The powers conferred by this section on the Mrrket Committee shall be exercised subject to any rules which may be made in that behalf by the State Government.

CHAPTER 6

The Market Fund

36. . :-

(1) All monies received by a Market Committee * * * under this Act [(except the amount of such fees credited to the Election Fund under section 14A)], all sums realised by way of penalty (otherwise than by way of a fine in a criminal case), all loans raised by the Committee, and all grants, loans or contributions made by the State Government to the Committee shall form part of a fund to be called the Market Fund.

(2) The amount to the credit of a Market Fund shall be kept or invested in such manner as may be prescribed.

37. The Market Fund may be expended for all or any of the following purposes, namely :- :-

(1)

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

(b) maintenance, development and improvement of the market;

(c) constiuction of, and repairs to, buildings necessary for the purposes of such market and for the health, convenience and safety of persons using it;

(d) The provision and maintenance of standard weights and measures;

(e) pay, pension, leave allowances, gratuities, compensations for injuries resulting from accidents, compassionate allowances and contributions towards leave allowances, pensions or provident fund of the officers and servants employed by the Market Committee ; *
* * * *

(g) the payment of interest on loan, if any, raised by the Market Committee and the provision of sinking fund in respect of such loan ;

(h) the collection and dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce notified under section 4 ;

(i) propaganda in favour of agricultural improvement and orderly marketing ;

(j) payment of allowances and travelling expenses to the members of the Market Committee and sub-committees ; and of the Board constituted, if any, under section 10 ;

(j1) the payment of an honorarium to the Chairman and Vice-Chairman under section 21A ;

(j2) giving grant or donation to any institution or body conducting any educational or welfare activities for the benefit of agriculturists in the market area, subject to the condition that the amount of such grant or donation does not exceed in the aggregate ten per cent of the net amount remaining after deducting the expenditure from the revenues of the year immediately preceeding the year in which such grant or donation is made ;]

(k) expenses of any Tribunal constituted under section 57 ;

[(l) The payment of expenses incurred in auditing the accounts of Market Committee ;

(m) the payment of such contribution to State Marketing Board as may be notified under sub-section (2);

(n) the making of any contribution to State Marketing Board as may be notified under sub-section (2);

(o) the provision of facilities, like grading services and communication of market information to agriculturists in the market area ;

(p) the payment of expenses on elections under this Act;

(q) the incurring of expenses for research, extension and training in marketing of agricultural produce ;

(r) the prevention in conjunction with other agencies, State and Central Government, of distress sale of agricultural produce ;

(s) the promotion of co-operative marketing of agricultural produce ;

(t) the promotion of warehousing finance for benefit of small and marginal farmers ;

(u) towards expenses of any Tribunal constituted under section 57 ;

(v) for any other purpose, with the previous approval of the State Government.]

[(2) Every Market Committee shall, out of the Market Fund, pay, within two months from the date of expiry of the previous market year, to the State Agricultural Marketing Board an annual contribution at such rate, not exceeding ten per cent of its gross annual income for the previous market year, and in such manner as the State Government may. by notification in the Official Gazette, specify from time to time, and having regard to the finances of a Market Committee or class or classes of Market Committees, different rates may be specified for different Market Committees or class or classes of Market Committees.]

38. Manner of preparing budget, etc. :-

(1)] The manner in which any payment from the Market Fund shall be made, its accounts shall be kept and audited or re-audited (including powers to be exercised by the auditor in that behalf), its annual, revised or supplementary budget estimates of income and expenditure shall be made (including provision for modifying, annulling or rescinding such budgets) and its annual administration report shall be prepared, shall be prescribed by- rules made in that behalf.

(2) Every Market Committee shall submit the budget to the State Marketing Board for sanction before the prescribed date every year. The State Marketing board shall sanction the budget with or without modification, as the case may be, within one month from the date of receipt thereof. If the approval or otherwise of the budget is not communicated by the Board within one month of its receipt by it, the budget shall be deemed to have been sanctioned without any modification.

(3) No expenditure shall be incurred by a Market Committee on any item if there is no provision in the sanctioned budget therefor unless it can be met by re appropriation from saving under any other budget head. The sanction for reappropriation may be obtained from the State Marketing Board :

Provided that, in case of reappropriation from one minor budget head to the other under one major budget head, such sanction for reappropriation shall not be required.

(4) A market Committee may at anytime during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and sanctioned in the same manner as if it were on original budget.]

38A. Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities :-

(1) No expenditure from the funds of a Market Committee shall be incurred for the purpose of defraying the cost of any proceeding filed or taken by or against any member. Chairman or Vice-Chairman of the Market Committee in his personal capacity. If any question arises whether

(2) If any person incurs expenditure in violation of sub-section (1), the Director shall direct the person to repay the amount to the Market Committee within one month and where such person fails to

repay the amount as directed., such amount shall, on the certificate issued by the Director, be recoverable as arrear of land revenue.

(3) The person against whom action is taken by the Director under subsection (2) shall be disqualified to continue to be a member of the Market Committee for remainder of his term of office and shall also be disqualified for contesting for the next election including any next bye-election of the Market Committee held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (2).]

CHAPTER 7

Trade allowances prohibited.

39. . :-

No person shall make or recover any trade allowance in any market or market area in any transaction in respect of any agricultural produce.

Explanation - For the purposes of this section, trade allowance means any deduction in cash or kind in price or rate of the agricultural produce on account of any variation in the quality, weight, grade, container, sample or admixture.

CHAPTER 7A

State Agricultural Marketing Board

39A. . :-

(1) The State Government may, for co-ordinating the activities of Market Committees and for exercising such other powers and performing such functions as are conferred or entrusted under this Act, by notification in the Official Gazette, establish, with effect from such date as may be specified in such notification, a State Agricultural Marketing Board to be called "The Maharashtra State Agricultural Marketing Board * * * *

(2) The State Marketing Board shall be a body corporate by the name aforesaid and shall have perpetual succession and a common seal, and may in its corporate name sue and be sued and shall be competent to contract,

(3) Notwithstanding anything contained in any law for the time being in force, the State Marketing Board shall, for all purposes, be deemed to be a local authority.

39B. . :-

The state marketing Board shall consist of the following members, that is to say -

Explanation :- For the purposes of Chapter VII-A, the expression "member" means a member of the State Marketing Board.

39C. Officers and servants of State Marketing Board :-

(1) Subject to the superintendence of the State Marketing Board the Managing Director shall function as the chief executive officer of the State Marketing Board.

(2) The State Marketing Board shall appoint such other officers and servants under the supervision and control of the Managing Director as it may consider necessary for the efficient discharge of its duties and functions under this Act.

39D. Member not disqualified from contesting elections or as members of State Legislature or local authorities :-

Notwithstanding anything contained in any law for the time being in force, a member of the State Marketing Board referred to in clause (vi) or (viii) of section 39B shall not be disqualified for being chosen as, and for being, a member of the State Legislature or councillor of any local authority, merely by reason of the fact that he is a member of the State Marketing Board .

39E. Term of office of members :-

(1) The term of office of the member referred to in clause (vii) of section 39B shall ordinarily be three years from the date of his nomination as such member,

(2) Notwithstanding anything contained in sub-section (1), the term of office of a member of the State Marketing Board shall, unless the State Government terminates his membership earlier or he resigns his membership, come to an end as soon as he ceases to hold any office, or the office under Government, the Market Committee, the National Bank of Agricultural and Rural Development (NABARD). or as the case may be. the Maharashtra State Market Committee's Co-operative Federation, by virtue of which he holds the membership of the state Marketing Board under section 39B :

Provided that, the membership of the Agricultural Marketing Adviser to the Government of India or his representative shall not be terminated under this section without the concurrence of that Government.

39F. Casual vacancies :-

Where a vacancy occurs on account of resignation, death or otherwise in the office of a member of the State Marketing Board, the Vacancy shall be filled as soon as possible by nomination by the State Government of other person belonging to the category from which the former member was nominated, and the member so nominated shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred.

39G. Members to act during vacanc, acts, etc., of State Marketing Board, etc., not to be invalidated by informalities :-

(1) During any vacancy in the State Marketing Board the continuing members may act as if no vacancy had occurred .

(2) The State Marketing Board shall have power to act, notwithstanding any vacancy in the membership or any defect in the constitution thereof ; and such proceedings thereof shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat and voted or otherwise took part in the proceedings

39H. Resignation of members :-

A member of the State Marketing Board may resign his office by writing under his hand addressed to the Managing Director ; and the resignation shall take effect from the date it is accepted.

39I. Allowances of members :-

The members of the State Marketing Board, holding membership under clauses (v) to (viii) of section 39B shall be paid from the Agricultural Marketing Development Fund, such fees and allowances as may be fixed by the State Government, from time to time, for attending its meeting and for attending to any other work, assigned to them by the State Marketing Board.

39J. Functions and powers of State Marketing Board :-

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

(i) to co-ordinate the functioning of the Market Committees including programmes undertaken by such Market Committees for

the development of markets and market areas ;

(ii) to undertake State-level planning of the development of agricultural produce markets ;

(iii) to maintain and administer the Agricultural Marketing Development Fund ;

(iv) to give advice to market Committees in general or any Market Committee in particular with a view to ensuring improvement in the functioning thereof;

(v) to supervise and guide the Market Committee in the preparation of plans and estimates of construction programme undertaken by the Market Committee ;

(vi) to make necessary arrangements for propaganda and publicity on matters relating to marketing of agricultural produce ;

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

(viii) to arrange or organise seminars, workshops or exhibitions on subjects relating to agricultural marketing ;

(ix) to do such other things as may be of general interest relating to marketing of agricultural produce :

(x) to carry out any other function specifically entrusted to it by this Act;

(xi) to carry out such other functions of like nature as may be entrusted to it by the State Government.

39K. Regulations :-

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

(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 summoning and holding of the meetings of the State Marketing Board, the time and date when such meetings are to be held, the conduct of business at such meetings are to be held, the

conduct of business at such meetings and the number of persons necessary to form a quorum there at;

(b) the powers and duties, the salaries and other conditions of service of officers and other employees of the State Marketing Board ;

(c) the management of the properties of the State Marketing Board ;

(d) the maintenance of accounts and the preparation of balance sheet and other financial statements ;

(e) any other matter for which provision is to be or may be required to be made in the regulations for carrying out the functions of the State Marketing Board under this Act.

39L. Establishment and administration of Agricultural Marketing Development Fund :-

(1) A fund to be called "the Agricultural Marketing Development Fund" is hereby established, which shall be maintained and administered by the State Marketing Board.

(2) The following shall form part of, or be paid into, the Agricultural Marketing Development Fund (hereinafter called "the Development Fund") namely :-

(a) all contributions received by the State Marketing Board from the market Committees under sub-section (2) of section 37 ;

(b) all contributions, grants or loans made or sanctioned to the State Marketing Board by the State Government;

(c) any sums borrowed by the State Marketing Board, with the permission of the State Government;

(d) all income or moneys received by the State Marketing Board from any other source whatsoever, including income from fees or charges levied by it or donations or grants received from any local authorities. Market Committees or other institutions and individuals ;

(e) such other sums as the State Government may, from time to time, specify.

(3) All expenditure incurred by the State Marketing Board shall from time to time, be met out of the Development Fund, and the

surplus, if any, shall be invested by the State Marketing 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.

39M. Power of State Marketing Board to borrow :-

Subject to such conditions as may be prescribed, the State marketing Board may, for the purpose of providing itself with equate resources, borrow money in the open market by issue of guaranteed or unguaranteed bonds. Debentures, stocks or otherwise, or borrow money from any scheduled banks, or from such other banks or financial institutions as are approved, from time to time, by the State Government.

39N. Utilisation of the Development Fund :-

(1) The State Marketing Board may utilize the Development Fund for discharge of its functions under this Act.

(2) Without prejudice to the generality of the forgoing provision, the State Marketing Board may utilize the Development Fund for the following purposes, namely :-

(i) payment of administrative expenditure of the State Marketing Board :

(ii) payment of travelling and other allowances to its members :

(iii) payment of legal expenses incurred ;

(iv) financial assistance to Market Committees in the form of loan or grant for acquisition of land for establishment of market yard or for constructing infrastructure facilities in the market area ;

(v) propaganda and publicity on matters relating to marketing of agricultural produce ;

(vi) training of officers and staff of the Market Committee and the State Marketing Board;

(vii) imparting education in marketing of agricultural produce ;

(viii) organising or arranging workshops, seminars or exhibitions on development of marketing of agricultural produce ;

(ix) general improvement of the regulation of marketing in the State ;

(x) providing technical and legal assistance to the Market Committees;

(xi) any other purposes necessary for execution of the functions assigned to the State Marketing Board under this Act or as directed by the State Government.

390. Audit of accounts :-

(1) The accounts of the State Marketing Board shall be audited annually by auditors of the Co-operation Department of the State Government on payment of such audit fees as may be fixed, from time to time, by the Registrar of Co-operative Societies.

(2) The State Marketing Board may make arrangements for internal audit of its accounts, as it may deem fit.]

CHAPTER 8

Control

40. Inspection, inquiry, submission of statements, etc. :-

The Director or any officer authorised by him by general or special order in this behalf, may -

(a) inspect or cause to be inspected the accounts and offices of a Market Committee;

(b) hold inquiry into the affairs of a Market Committee ;

(c) call for any return, statement, accounts or report which he may think fit to require such Committee to furnish :

(d) require a Committee to take into consideration -

(i) any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such Committee, or

(ii) any information he is able to furnish and which appears to him to necessitate the doing of a certain thing by such Committee, and to make a written reply to him within a reasonable time stating its reasons for doing, or not doing such thing ;

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

41. Duty of Officers and memebtrs to furnish information to

Director, authorized officers and State Government :-

(1) When the affairs of a Market Committee are investigated under section 40 or the proceedings of such Committee are examined under section 43, all officers, servants and members of such Committee shall furnish such information in their possession in regard to the affairs or proceedings of the Committee as the Director, officer authorised or, as the case may be, State Government may require.

(2) An officer investigating the affairs of a Market Committee under section 40 or the State Government examining the proceedings of such Committee under section 43 shall have the power to summon and enforce the attendance of officers or members of the Market Committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

41A. Powers of the Director to prohibit execution of resolution passed or order made by Committee etc. :-

(1) The Director may, on his own motion, or on report or complaint received by him, by order, prohibit the execution of a resolution passed or order made by the Committee or its Chairman or Vice-Chairman or any of its officer or servants of the Market Committee, if he is of the opinion

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

42. Seizure of account books and other documents :-

Where the Director has reason to believe that the books and records of a Market Committee are likely to be tampered with or destroyed the funds or property of a Market Committee are likely to be misappropriated or misapplied, the Director may issue an order directing a person duly authorised by him in writing to seize and

take possession of such books and records, funds and property of the Market Committee, and the officer or officers of the Market Committee responsible for the custody of such books, records, funds and property, shall give delivery thereof to the person so authorised.

43. Powers of State Government or Director to call for proceedings of Market Committee, etc. And to pass orders thereon :-

The State Government may at any time call for and examine the proceedings of any Market Committee or of the Director, and the Director may at any time call for and examine the proceedings of any Market Committee or an officer empowered to exercise the powers of the Market Committee or of the Director or the officer, as the case may be, under this Act. If in any case, it appears to the State Government or the Director that any decision or order or proceeding so called for should be modified, annulled or reversed, the State Government or the Director may pass such order thereon as it or he may think fit.]

44. Amalgamation or division of Market Committees :-

(1) Where the State Government is satisfied that for securing efficient regulation of marketing of any agricultural produce in any market area, it is necessary that two or more Market Committees therein should be amalgamated or any Market Committee therein should be divided into two or more Market Committees, then the State Government may, after consulting [and the Market Committees or Committee, as the case may be, [and the Federation of Market Committees, if any (being a Federation which is duly recognised by an order in the Official Gazette by the State Government to be the Federal Body of Market Committees),] by notification in the Official Gazette, provide for the amalgamation or division of such Market Committees into a single Market Committee or into two or more Market

(2) Where more Market Committees than one are established in any market area under sub-section (1), the State Government may, notwithstanding anything contained in this Act, issue general or special directions as to which of the Market Committees shall exercise the powers, perform the duties and discharge the functions of the Market Committee, under this Act. in which they are jointly interested or which are of a common nature.

(3) Where any directions are issued under sub-section (2). the cost incurred by a Market Committee in pursuance of the directions shall be shared by the other Market Committees concerned in such proportion as may be agreed upon, or, in default of agreement, as may be determined by the State Government or such officer as that Government may direct in this behalf. The decision of the State Government or such officer shall be final.

45. Supersesion of Market Committee, etc. :-

(1) If, in the opinion of the State Government, a Market Committee or any member thereof, is not competent to perform or persistently makes default in performing the duties imposed on it or him by or under this Act, or abuses its or his powers or wilfully disregards any instructions issued by the State Government or any officer duly authorised by it in this behalf arising out of audit of accounts of Market Committee or inspection of the office and work thereof, the State Government may, after giving the Committee or member, as the case may be, an opportunity of rendering an explanation, by notification in the Official Gazette, with reasons therefor, supersede such Market Committee, or remove the member, as the case may be; and where a member is removed, the State Government shall appoint any person as a member of such Committee in his place for the remainder of his term of office :

[Provided that, no Market Committee shall be superseded without the [State Marketing Board] referred to in section 44 being previously consulted.]

(2) Upon the publication of notification under sub-section (1) superseding a Market Committee, the following consequences shall ensue, that is to say -

(a) all members of the Market Committee shall as from the date of such publication be deemed to have vacated their office ;

(b) all the property vesting in the Market Committee shall, subject to all its liabilities, vest in the State Government;

(c) the State Government may by order, either constitute a new Market Committee in accordance with the provisions of Chapter III or make such arrangements for the carrying out of the functions of the Market Committee as it thinks fit.

(3) If the State Government makes an order under clause (c) of

sub-sec. (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 as aforesaid or to the person or persons, if any, appointed for the carrying out of 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

(5) The local authority to which the assets of a Market Committee are transferred under sub-section (4) shall utilise such assets for such objects in the area within its jurisdiction as the State Government considers to be for the benefit of the agriculturists in that area.

CHAPTER 9

Penalties

46. Penalty for contravention of section 6 :-

Whoever in contravention of the provisions of sub-section (1) of section 6 uses any place in the market area for marketing of any agricultural produce, or operates as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity, without a valid licence, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both; and in the case of a continuing contravention, with a further fine which may in the case of contravention of clause (a) of sub-section (1) of section 6 extend to one hundred rupees; and in any other case, to fifty rupees per day, during which the contravention is continued after the first conviction.

47. Penalty for not complying with directions under section 26 (2) :-

If the outgoing Chairman or Vice-Chairman to whom a direction has been issued under sub-section (2) of section 26 does not, except for reasons beyond his control, comply with such direction, he shall, on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees, or with both.

48. Penalty for making or recovering trade allowance :-

Whoever in contravention of the provisions of section 39 makes or

recovers any trade allowance shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

49. Penalty for failure to obey order under section 40 :-

Whoever obstructs any officer in carrying out the inspection of accounts or holding an inquiry into the offices of a Committee or fails to obey any order made under clause (a), (c), (d) or (e) of section 40 shall on conviction, be punished with fine which may extend to two hundred rupees for every day during which the offence continues.

50. Penalty for contravening provisions of section 40 or 43 :-

If any officer, servant or member of a Market Committee, when required to furnish information in regard to the affairs or proceedings of a Market Committee under section 40 or section 43 -

(a) wilfully neglects or refuses to furnish any information, or

(b) wilfully furnishes false information, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

51. Penalty for contravention of section 42 :-

Whoever in contravention of the provisions of section 42 obstructs any person in seizing or taking possession of any books, records, funds and property of the Market Committee or fails to give delivery thereof to such person shall, on conviction, be punished with fine which may extend to two hundred rupees.

52. General provision for punishment of offences :-

Whoever contravenes any provision of this Act or any rule or bye-law thereunder shall, if no other penalty is provided for the offence, be punished with fine which may extend to two hundred rupees.

52A. Compounding of offence :-

(1) The Market Committee may accept from any person who has committed or is reasonably suspected of having committed an offence (other than contravention of section 6 and 7) against this Act or the rules or bye-laws made thereunder by way of compounding of such offence -

(a) where the offence consists of the failure to pay or the evasion of any fee or other amount recoverable under this Act or the rules

or the bye- laws made thereunder, in addition to the fee or other amount so recoverable, a sum of money being not less than the amount of such fee or other amount and not more than five times such amount of fee or other amount with a minimum of two hundred and fifty rupees : and

(b) in any other case, a sum of money not exceeding one thousand rupees.

(2) On the compounding of any offence under sub-section (1), no proceeding shall be taken or continued against the person concerned in respect of such offence, and if any proceedings in respect of that offence have already been instituted against him in any Court, the compounding shall have the effect of his acquittal.

52B. Appeal :-

(1) Save as otherwise provided elsewhere in this Act, any person aggrieved by a decision taken or order passed under any of the provisions of this Act may prefer an appeal -

(a) to the Director where such decision is taken or order is passed by the Market Committee, its Chairman, Vice-Chairman, Secretary or any other officer empowered to exercise the powers of the Director.

(b) to the State Government, where such decision is taken or order is passed by the Director.

(2) An appeal under sub-section (1) shall be made within a period of thirty days from the date of the decision or order appealed against.

(3) The order passed in the appeal by the Director or the State Government, as the case may be, shall be final]

CHAPTER 10 Miscellaneous.

53. Members to be held responsible for misapplied funds :-

Every member of a Market Committee shall be personally liable for the wilful misapplication of any funds to which he had been a party or which has happened through, or has been facilitated by, gross neglect of his duty as a member, and may be sued for the recovery of the monies so misapplied as if such monies 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 expenses incurred by or on behalf of the Market Committee, if the contract or agreement is made, or the expenses are incurred in good faith and in the due discharge of his duties ; and the Market Fund shall be liable for, and be charged with, all costs in respect of any contract or agreement and all such expenses.

54. Chairman, Vice-Chairman, members, Secretary and servants of Market Committee to be public servants XLV of 1860 :-

The Chairman, the Vice-Chairman, the members, the Secretary and other officers and servants of a Market Committee shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code.

55. Bar of suit in absence of notice :-

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

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

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

56. Trial of offences :-

(1) No offence under this Act, or any rule or bye-law made thereunder shall be tried by a Court other than that of a Presidency Magistrate or a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf.

(2) No prosecution under this Act shall be instituted except by the Director or any officer authorised by him in that behalf or by the Secretary or any other person duly authorised by the Market Committee in that behalf.

(3) No Court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months from the date on which the alleged commission of the offence came to the knowledge of the officer or person referred to in sub-section (2).

57. Recovery of sums due to Government or Market Committee :-

(1) Every 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 charge, costs, expenses, fees, rent or on any other account under the provisions of this Act or any rule or bye-law made thereunder [or any sum due to an agriculturist for [any agricultural produce] sold by him in the market area which is not paid to him [as provided by or under this Act]] shall be recoverable from the person from whom such sum is due, in the same manner as an arrear of land revenue.

(3) If any question arises whether a sum is due to the Market Committee [or any agriculturist] within the meaning of sub-section (2). it shall be referred to a Tribunal constituted for the purpose which shall after making such enquiry as it may deem fit, and after giving to the person from whom it is alleged to be due an opportunity of being heard, decide the question ; and the decision of the Tribunal shall be final and shall not be called in question in any court or other authority.

(4) The State Government may constitute one or more Tribunals consisting of the Collector who has jurisdiction over the market area :

Provided that, the State Government may, if in its opinion it is necessary so to do in any case constitute a Tribunal consisting of one person other than the Collector (possessing the prescribed qualifications) who is not connected with the Market Committee or with the person from whom the sum is alleged to be due.

(5) Except as otherwise directed by the Tribunal in the

circumstances of any case, the expenses of the Tribunal shall ordinarily be borne by the party against whom a decision is given.]

58. Power of State Government to delegate powers :-

The State Government may, by notification in the Official Gazette, and subject to such conditions, if any, as it may think fit to impose, delegate all or any of the powers conferred [upon it to the Directors or any other officer or person ; and delegate any powers of the Directors, to any other officer or person, specified in the notification.]

59. Power to exempt Market Committees, etc., from provisions of Act :-

The State Government may, by a general or special order, in the Official Gazette, exempt any Market Committee or any class of persons from any of the provisions of this Act or any rules made thereunder, or may direct that such provision shall apply to such Market Committee or to such class of persons with such modifications not affecting the substance thereof as may be specified in that order :

Provided that, no order to the prejudice of any Market Committee shall be passed, without an opportunity being given to such Market Committee to represent its case.

59A. Duty of local authorities to give information and assistance to Market Committee :-

It shall be the duty of every local authority to give all the necessary information in the possession of or under the control of its officers to the Market Committee or to any officers of the Market Committee authorised by it in this behalf, relating to the import and export of agricultural produce into and out of the area of the local authority, free of any charges. It shall also be the duty of every local authority and its officers and staff, concerned with the collection of octroi, to give all the possible assistance to any officer of the Market Committee in exercising his powers and discharging his duties under this Act.

59B. Duty of police officer :-

It shall be the duty of every police officer to communicate, as soon as may be, to the Market Committee, any information which he receives regarding any attempt to commit or the commission of any offence against this Act or any rules or bye-laws made thereunder and to assist the Secretary or any officer or servant of the Market

Committee demanding his aid in the exercise of his lawful authority.]

60. Rules to be prepared by the State Government under certain Situations :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying into effect the purposes of this Act.

(2) In particular, but without prejudice to the generality of the foregoing provisions, the State Government may make rules,

(a) under section 4, for prescribing the manner of holding an inquiry ;

(b) under section 7, subject to which licences may be granted, renewed or refused; and for prescribing the form, period and the terms, conditions and restrictions (including provision for prohibiting brokers and commission agents from acting in any transaction both as a buyer or seller or on behalf of both the buyer and seller, and for prescribing the manner in which and the places at which the auction of agricultural produce shall be conducted and the bids made and accepted and the places at which weighing and delivery of agricultural produce shall be made in any market or market area) and the maximum fees for licences ;

(c) under section 10, for [prescribing the number and qualifications of persons] of the Board, the manner in which it shall be constituted and shall conduct the business for settling disputes (including provision for appointment of arbitrators, payment of fees and appeal [, for consulting technical persons, for laboratory analysis] as provided by that section);

(d) under section 14, for prescribing the manner in which members may be elected including all matters referred to in that section ;

(e) under section 20, prescribing the period for which a Chairman or a Vice-Chairman shall hold office ;

[(e') under section 21 A, for prescribing the limit of the total amount of honorarium to be paid to the Chairman and Vice-Chairman of the Market Committee ;]

(f) under section 29, sub-section (2), under clause (j), for prescribing grading and standardisation of agricultural produce and

under clause (1) for prescribing other duties to be performed by Market Committee ;

(g) under section 34, prescribing the time within which an appeal shall be made ;

(h) under sub-section (3) of section 35, subject to which the powers conferred by that section on a Market Committee shall be exercised ;

(i) under section 36, for prescribing the manner in which the amount to the credit of a Market Fund shall be kept or invested ;

(j) under section 37, prescribing other functions of a Market Committee;

(k) under section 38, for matters referred to in that section ;

[(kl) under section 39M, for prescribing the conditions subject to which the State Marketing Board shall have power to borrow ;]

(l) under section 57. under sub-section (4), prescribing the qualifications of a person who shall constitute a Tribunal under that section ;

(m) for the periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area :

(n) prescribing the manner of control and supervision to be exercised by the Market Committee over Inspectors appointed under the Bombay Weights and Measures (Enforcement) Act, 1958 ;

(o) for storing any agricultural produce brought into the market area :

(p) for preparing plans and estimates for works proposed to be constructed partly or wholly at the expenses of the Market Committee, and the grant of sanction to such plans and estimates;

(q) for the manner in which the enquiry and inspection of the Market Committee shall be held ;

(r) prescribing the persons by whom and the form in which copies of documents or entries in the books of the Market Committee, may be certified and the fees to be charged for the supply of such copies;

(s) for the keeping of the list of prices of agricultural produce in respect of which the Market Committee is established ;

(t) prescribing the matters in respect of which a Market Committee may make or the Director may direct the Market Committee to make bye- laws and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

[(u) for any other matter which is to be or may be prescribed.]

(3) The rules to be made under this section shall be subject to the condition of previous publication.

[(3A) Any rule made under this section may provide that if any purchaser fails to make the payment forthwith as required by sub-section (6) of section 30A, he shall be liable to pay interest from the date of sale to the date of payment at such rate as may be provided in such rule, such rate not being in excess of the maximum rate of interest fixed for unsecured loans under the Bombay Money-lenders Act, 1946. If no payment is made within 30 days from the date on which the agricultural produce is sold, it shall be recoverable by the Market Committee from the purchaser under section 57.]

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the Official Gazette of such decision have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

61. Bye-laws :-

(1) Subject to any rules made by the State Government under sec. 60 and with the previous sanction of the Director or any other officer specially empowered in this behalf by the State Government, the Market Committee may in respect of the market area under its

management make bye-laws for determining the quantity of agricultural produce for the purpose of its retail sale, for the regulation of the business (including meeting, quorum and procedure of the Market Committee) and the conditions of trading in the market area, including provision for refund of any fees levied under this act.

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

61A. Power of Director to direct making or amending bye-laws :-

(1) If it appears to the Director that it is necessary or expedient in the interest of a market or Market Committee to make any bye-law or to amend any bye-law, he may, by order, require the Market Committee concerned to make the bye-law or to amend the bye-law within such time as he may specify in such order.

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

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

62. Power of State Government to amend Schedule :-

The State Government may, after consulting the Market Committees concerned by notification in the Official Gazette, add to, amend or cancel any of the items of agricultural produce specified in the Schedule.

63. Bom. IV of 1862 Savings :-

Nothing contained in the Market 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 any market therein or affect in any way the powers of a Market Committee or the rights of a holder of a licence granted under this Act.

64. Bom. XXII of 1939. C.P. and Berar IX of 1932. C.P. and Berar XXIX of 1935. Hyd. II of 1339F. Repeal and Savings :-

(1) On the commencement of this Act, the Bombay Agricultural Produce Markets Act, 1939 the Central Provinces and Berar Cotton Market Act, 1932, the Central Provinces and Berar Agricultural Produce Market Act, 1935 and the Hyderabad Agricultural Markets Act. 1339 Fasli, shall stand repealed :

Provided that, the repeal shall not affect the previous operation of any enactment so repealed and anything done or action taken (including any appointment, delegation or declaration made, notification, order, rule, directions or notice issued, bye-law framed, Market Committees established, licences granted, fees levied and collected, instruments executed, any funds established or constituted) by or under the provisions of any such enactments shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Accordingly, any area or place declared to be a market area or any place or market declared to be a market under any enactment so repealed shall, on the commencement of this Act, be deemed to be the market area or market declared under this Act, the Market Committee established or constituted for the said market area or market and functioning immediately prior to such commencement shall be deemed, notwithstanding anything contained in this Act, to be the Market Committee constituted under this Act for such market area, and where it is so declared or notified also for the agricultural produce specified in the declaration or notification and all the members of such Committees shall be deemed to be members nominated by the State Government under sub-section (2) of section 13.

(3) Any reference to any enactment repealed as aforesaid or to any provision thereof or to any officer, authority or person entrusted

with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act or its relevant provisions or person functioning under this Act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under such law, instrument or document.

(4) The mention of particular matters in this section shall not affect the general application to this Act of section 7 of the Bombay General Clauses Act, 1904 (which relates to the effect of repeals)

65. Power to State Government to transfer assets, etc.. in cases of Market Committees constituted for excluded areas under Bom XX11 of 1939 :-

Where before the commencement of this Act, any area comprised in any market area was excluded from such market area under section 4 of the Bombay Agricultural Produce Market Act, 1939 and the area so excluded was declared as a separate market area under the said section 4 and a separate Market Committee was constituted therefor and both the Market Committees continue to function immediately after such commencement and the assets, rights and liabilities of the separate Market Committee are not yet determined, then the State Government may, by notification in the Official Gazette, after consulting the Market Committees concerned, provide for the transfer of assets, rights and liabilities of the Market Committee in relation to the area so excluded (including the rights and liabilities under any contract made by it) to the separate Market Committee on such terms and conditions as may be specified in such notification.

66. . :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may as occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

SCHEDULE 1

SCHEDULE