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West Bengal Act XXXV of 1972¹

THE WEST BENGAL AGRICULTURAL PRODUCE MARKETING (REGULATION) ACT, 1972.

AMENDED

West Ben. Act XXXIV of 1975.
West Ben. Act XII of 1977.
West Ben. Act XXVII of 1978.
West Ben. Act XXI of 1981.

[31st October, 1972.]

An Act to provide for the regulation of marketing of agricultural produce in West Bengal.

WHEREAS it is expedient to provide for the regulation of marketing of agricultural produce in West Bengal and for matters connected therewith;

AND WHEREAS previous sanction of the President under the proviso to clause (b) of article 304 of the Constitution of India has been obtained;

It is hereby enacted in the Twenty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972.

(2) It extends to the whole of West Bengal.

(3) It shall come into force² on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different areas.

2. (1) In this Act, unless the context otherwise requires,—

(a) “agricultural produce” means any produce of agriculture, horticulture, pisciculture, ³[sericulture,] forestry or animal husbandry or ⁴[and includes any related product] specified in the Schedule to this Act:

Short title,
extent and
commence-
ment.

Definitions.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part (VA, of the 26th July, 1972, page 1553; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 8th August, 1972.

²This Act came into force on 26th November, 1998 in the areas under Police-stations Ghatal, Daspur and Chandrakona, in the Sub-Division Ghatal, District Midnapore, vide Agriculture Deptt. notification No. 6532-M.W. & C/1M-7/93, dated the 26th November, 1998.

³This Act came into force on 26th April, 2000 in the areas under Police-stations Kalimpong, Gurubathan and Jaldhaka, in the Sub-Division Kalimpong, District Darjeeling, vide Agriculture Deptt. notification No. 2669-M.W. & C/1M-8/94, dated the 26th April, 2000.

⁴The word within the square brackets were inserted by s. 2(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁵The words within the square brackets were substituted for the words “or any other produce” by s. 2(a)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

*The West Bengal Agricultural Produce Marketing
(Regulation) Act, 1972.*

[West Ben. Act

(Section 2.)

Provided that the State Government may, by notification
* * *, include any item of agricultural produce in the
Schedule or exclude any such item from it;

- (b) "agriculturist" means a person who ordinarily by himself or by his tenant or hired labourer or otherwise, is engaged in the production and growth of agricultural produce, but does not include a trader or broker in agricultural produce notwithstanding that such trader or broker is also engaged in the production or growth of agricultural produce;
- ²(bb) "Board" means the West Bengal State Marketing Board established under sub-section (1) of section 36;
- (c) "broker" means an agent whose ordinary course of business is to negotiate and make contracts on payment of commission for the purchase or sale of agricultural produce on behalf of his principal, but does not include a servant of such principal engaged in negotiating or making such contracts;
- (d) "commission agent" means a person who buys and sells agricultural produce for any 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;
- ³(e) "Director" means the Director of Marketing, West Bengal and includes the Additional Director of Agriculture (Marketing), West Bengal and the Joint Director of Agriculture (Marketing), West Bengal;
- ⁴(ee) "licensed trader" means a trader licensed under section 13;
- ⁵(f) "local authority" means in a municipal area, the municipal authority and in a notified area, the notified area authority, by whatever name called, and includes "[a Town Committee, a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*]" or any such authority, by whatever name called;

¹The words "in the *Official Gazette*" were omitted by s. 2(a)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Clause (bb) was inserted by s. 2(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

³Clause (e) was substituted for original clause by s. 2(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁴Clause (ee) was inserted by s. 2(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁵Clause (f) was substituted for original clause by s. 2(c), *ibid*.

⁶Words within the square brackets were substituted for the words "a *Gram Panchayat*, an *Anchal Panchayat* or a *Zilla Parishad*" by s. 2(c) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

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(Section 2.)

- (g) "market" means a market established or declared as such under this Act for a market area and includes ¹[a principal market yard and a sub-market yard,] if any;
- (h) "market area" means any area declared to be a market area under section 3;
- (i) "market committee" means a committee constituted under section 5;
- ²(ia) "market functionary" includes a trader, commission agent, broker, weighman, measurer, warehouseman or surveyor carrying on business in a market area on valid licence issued under section 13;
- * * * * *
- ⁴(jj) "market year" means the year commencing on the first day of April;
- (k) "measurer" means a person whose business is to measure a consignment of agricultural produce for sale;
- ⁵(kk) "notification" means a notification published in the *Official Gazette*;
- ⁶(kkk) "person" means an individual and includes a firm, a joint family, a local authority, an association or a body of individuals whether incorporated or not;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "principal market yard" means any enclosure, building or locality within the ⁷[market area] declared to be a principal market yard under section 4;
- (n) "retail sale" means a sale of any agricultural produce not exceeding such quantity as may, by rules made under this Act, be fixed in respect of such agricultural produce;
- (o) "Schedule" means the Schedule to this Act;

¹The words within the square brackets were substituted for the words "a market proper, a principal market yard, sub-market yard or yards," by s. 2(d) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Clause (ia) was inserted by s. 2 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³Clause (j) was omitted by s. 2(e) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴Clause (jj) was inserted by s. 2(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

⁵Clause (kk) was inserted by s. 2(f) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁶Clause (kkk) was inserted by s. 2(d) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁷The words within the square brackets were substituted for the words "market proper" by s. 2(g) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

(Section 2.)

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Act XXIII of
1958.

- (p) "Secretary" means a person appointed as such under section 14 and includes an officialing or acting secretary;
 - (q) "standard weight" and "standard measure" have the same meanings respectively assigned to them in the West Bengal Standards of Weights and Measures (Enforcement) Act, 1958;
 - (r) "sub-market yard" means any enclosure, building or locality within the '[market area]' declared to be a sub-market yard under section 4;
 - (s) "surveyor" means a person whose business is to survey a consignment of agricultural produce for sale in regard to quality, refraction, adulteration and any other purposes;
 - (t) "trader" means a person ordinarily engaged in the business of purchasing and selling agricultural produce as a principal or as a duly authorised agent of one or more principals and includes a person ordinarily engaged in the business or processing or preservation of agricultural produce;
- * * * * *
- (u) "trade allowance" means anything realised in cash or kind, by the purchaser from the seller in any transaction relating to agricultural produce either by deduction from the price agreed upon or otherwise;
- Explanation.*—In this clause "purchaser" includes a commission agent;
- (v) "warehouseman" means a person whose business is to store agricultural produce in any building, structure or enclosure on behalf of persons depositing such produce; and
 - (w) "weighman" means a person who, in the ordinary course of business, is engaged in the weighing of agricultural produce in connection with a transaction of sale or purchase thereof.

(2) If any question arises as to whether a person is or is not an agriculturist or a trader within the meaning of this Act, the decision of the Director on such question shall be final:

Provided that the Director shall give the person a reasonable opportunity of being heard before giving his decision.

¹The words within the square brackets were substituted for the words "market proper" by s. 2(h) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²'Explanation' to clause (t) was omitted by s. 2(e) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

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(Section 3.)

3. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the State Government may, by notification, declare any area as a market-area within which purchase and sale of such agricultural produce as may be specified in the notification, shall be regulated.

Declaration
of market
area.

(2) On the publication of such notification under sub-section (1), or with effect from such later date as may be specified therein, no local authority or other person shall, notwithstanding anything to the contrary contained in any law for the time being in force, within the market area, or within such distance thereof as may be '[declared by notification] in this behalf, set up, establish or continue or allow to be set up, established or continued any place for the purchase or sale of such agricultural produce as has been specified in the notification under sub-section (1), except in accordance with the provisions of this Act and the rules made thereunder.

* * * * *

(3) The State Government may, by notification, include or exclude any area in or from a market area, as the case may be, or include or exclude any agricultural produce in or from the list of agricultural produce.

³(4) The State Government may, by notification, declare that a market area declared as such under sub-section (1) shall cease to be a market area with effect from such date as may be specified in the notification. When a market area thus ceases to be a market area any market established, declared or notified in such market area shall cease to be a market and the market committee constituted for the said market area shall stand dissolved with the following consequences:—

- (a) the members of the market committee shall be deemed to have vacated their offices, and
- (b) the unexpended balance of the Market Committee Fund and other properties and liabilities shall vest in the State Government free from all encumbrances and in such manner as may be prescribed:

Provided that the liability of the State Government shall be limited to the extent of the unexpended balance of the Market Committee Fund and the value of the property vesting in the State Government as may be determined in the manner prescribed.

¹The words within the square brackets were substituted for the words "notified in the *Official Gazette*" by s. 3(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²"Explanation" was omitted by s. 3(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

³Sub-section (4) was first substituted for the original sub-section by s. 3(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978). Thereafter, the same was resubstituted by s. 3(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

(Sections 4, 5.)

Declaration
of principal
market yard
and sub-
market yard.

¹4. ¹(1) The State Government may, by notification, declare any enclosure, building or locality in any market area, to be the principal market yard and other enclosures, buildings or localities in such area to be one or more sub-market yard or yards for a market area.

²(2) The State Government may, by notification, declare that no local authority or any other person, notwithstanding anything contained in any law for the time being in force, shall set up, establish or continue or allow to be continued any place for the purchase, sale, storage or processing of any agricultural produce within such distance of the principal market yard or a sub-market yard as may be specified in the notification.

²(3) Nothing contained in sub-section (2) shall apply to:—

- (a) the sale of agricultural produce by the producer himself or by any person employed by him when such sale is made to an individual who purchases it for his own consumption,
- (b) the purchase by an individual of agricultural produce for his own consumption, and
- (c) the sale or purchase of agricultural produce through retail sale.

Market
Committee.

5. ³(1) There shall be a market committee for every market area.

(2) Every market committee shall be a body corporate by such name as the State Government may specify, shall have⁴[, subject to the provision of sub-section (4) of section 3,] perpetual succession and a common seal, may sue and be sued in its own name, shall acquire, hold and dispose of property both movable and immovable, enter into contracts and do all such things as may, from time to time, be necessary for carrying out the functions of this Act:

Provided that save as the State Government may, by general or special order, direct, no market committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting of the market committee by not less than three-fourths of its members and with the previous sanction of the State Government.

¹Section 4 was substituted for the original section by s. 4 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Section 4 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-sections (2) and (3) were inserted by s. 4 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

³Sub-section (1) was substituted for the original sub-section by s. 5(a). *ibid.*

⁴The words, brackets and figures within the square brackets were inserted by s. 5(b). *ibid.*

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(Section 5.)

(3) ¹[The State Government shall, by notification, constitute a market committee consisting of] the following members—

- (a) two officers of the State Government of whom at least one shall be an officer of the ²[Directorate of Agricultural Marketing,] West Bengal, having jurisdiction over the area for which the market committee is constituted ³[or any part of such area];
- (b) one person to represent the members of any co-operative marketing society carrying on business in the market area, or if there is no such co-operative marketing society, any other co-operative society carrying on business in such area;
- (c) one person representing the bank financing the market committee:

Provided that in case where financing by bank is not done the State Government may nominate a representative of any other bank functioning in or near the market area;

- (d) one person representing ⁴[the local authority having jurisdiction over the market area or any part thereof];
- ⁵(dd) two persons representing the small growers;

Explanation.—In this clause, “small grower” means a grower owning, or having in his possession, less than two hectares of agricultural land;

- ³(ddd) the member of the West Bengal Legislative Assembly elected thereto from the constituency comprising the principal market yard or the major part of it:

Provided that where a market committee was constituted prior to the commencement of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981, with more than one member of the West Bengal Legislative Assembly as members of the market committee, the State Government may declare the names of the Chairman, the

¹The words within the square brackets were substituted for the words “A market committee shall consist of” by s. 5(c)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words within the square brackets were substituted for the words “Directorate of Agriculture” by s. 5(c)(ii), *ibid.*

³The words inserted by s. 3(1) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

⁴The words within the square brackets were substituted for the words “the local authority having jurisdiction over the market area” by s. 5(c)(iii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁵Clauses (dd) and (ddd) were inserted by s. 3(2) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975). Thereafter, clause (ddd) was substituted by s. 5(c)(iv) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

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(Section 5.)

Vice-Chairman and other members of the market committee by a fresh notification under section 6 with only one member of the West Bengal Legislative Assembly as a member of the market committee under this clause and upon such declaration the other members of the West Bengal Legislative Assembly who were members of the market committee prior to such declaration shall be deemed to have vacated their offices as members of the market committee;

- (e) five persons representing ¹[the agriculturists of the market area;] and
- (f) two persons representing the licensed traders doing business in agricultural produce in the market area:

²Provided that a market committee constituted under ³[this sub-section] may consist of the members mentioned in clauses (a), (b), (d) and (e). The other members of such market committee may, subject to the provisions of sub-section (5), be appointed subsequently.

⁴(3A) Notwithstanding anything contained in any judgement, decree or order of any court, a market committee constituted with the members mentioned in clauses (a), (b), (d) and (e) of sub-section (3) shall be deemed to have been duly constituted under ⁵[that sub-section], and any action taken, any order made, any notice issued, any fee imposed or realised, any direction given, any decision taken, any punishment awarded or any authority or power or jurisdiction exercised by such market committee under this Act shall be deemed to have been validly taken, made, issued, imposed or realised, given, taken, awarded or exercised under this Act, and shall not be called in question in any court.

(4) The State Government may, at any time, by order issued in this behalf, increase the representation of members mentioned in clauses (e) and (f) of sub-section (3) to seven and three respectively.

¹The words within the square brackets were substituted for the words "the agriculturists of the locality carrying on business in agricultural produce in the market area;" by s. 5(a)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Proviso was added by s. 5(a)(ii), *ibid.*

³The words within the square brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 5(c)(v) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁴Sub-section (3A) was inserted by s. 5(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁵The words within the square brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 5(d) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

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(Section 6.)

(5) The members of every market committee ¹[constituted under sub-section (3)] shall be appointed by the State Government ²* * * * *

(6) The State Government shall appoint one from among the members of the market committee to be the Chairman who shall be the executive head of the market committee and another to be the Vice-Chairman of the market committee.

(7) The term of office of the members of the market committee, save as otherwise provided in this Act, shall be three years from the ³[date of notification under ⁴{sub-section (3)}] and shall include any further period which may elapse between the expiration of the said period of three years and the date of the first meeting of the succeeding market committee at which a quorum is present:

Provided that a member of a market committee may, on expiry of his term of office, be re-appointed:

⁵Provided further that the term of office of a member of a market committee appointed at any time subsequent to the constitution of such market committee under the proviso to sub-section (3) shall expire simultaneously with the expiry of the term of office of the other members constituting such market committee.

⁶6. The names of Chairman and Vice-Chairman appointed under sub-section (6) of section 5 with the other members of a market committee shall be declared by the State Government by notification, but such market committee shall be deemed to be duly constituted from the date of notification under ⁷[sub-section (3)] of section 5:

Date of
constitution
of market
committee.

⁸Provided that the notification constituting market committee prior to the commencement of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981, shall be deemed to have been issued under sub-section (3) of section 5.

¹The words, figure and brackets within the square brackets were inserted by s. 5(e)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words "in consultation with the Director" were omitted by s. 5(e)(ii), *ibid.*

³The words within the square brackets were substituted for the words "date of publication of their names in the *Official Gazette*" by s. 5(c)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴The word, figure and brackets within the second brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 5(f) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁵Proviso was added by s. 5(c)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁶Section 6 was substituted for the original section by s. 6, *ibid.*

⁷The word, figure and brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 6(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁸Proviso was added by s. 6(ii), *ibid.*

(Sections 7-10 and 10A.)

Disqualifica-
tion of
members.

7. ¹(1) No person who—
- (a) is an employee of the market committee, or
 - (b) has been declared by a competent court to be of unsound mind, or
 - (c) is an undischarged insolvent, or
 - (d) has been convicted by a court of law for an offence involving moral turpitude,

shall be eligible to be appointed as a member of any market committee.

¹(2) No member of a market committee shall, if he ceases to represent the category of persons referred to in sub-section (3) of section 5 from which he was appointed, continue in office as such member.

Terms and
conditions
for holding
office.

8. The members of every market committee shall hold office on such terms and conditions as may be prescribed.

Casual
vacancy.

9. (1) If, at any time, a vacancy occurs in the office of a member of a market committee by reason of the non-acceptance of office, or by the removal, death or resignation, the vacancy shall be filled by a fresh appointment of a person belonging to the class which such member represented.

(2) Every person appointed under sub-section (1) shall hold office for the unexpired period of the term of office of member whose place he fills.

Removal of
member.

10. The State Government may, by notification ²* * * *, remove any member of a market committee from his office if such member has, in the opinion of the State Government, been guilty of misconduct or neglect of duty or has become disqualified within the meaning of section 7:

Provided that the State Government shall, before passing any order under this section, give the person concerned an opportunity of being heard.

Member
removed shall
not be
eligible for
re-appoint-
ment.

³10A. No member of the market committee who has been removed from his office on any of the grounds mentioned in section 10 shall be eligible for re-appointment to any market committee.

¹Section 7 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) was added by s. 7 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words "in the *Official Gazette*" were omitted by s. 8, *ibid*.

³Section 10A was inserted by s. 4 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

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(Sections 11, 12.)

11. No action of a market committee shall be called in question merely by reason of the existence of any vacancy in, or any defect in the constitution of, the market committee at the time of taking such action.

Validity of
action of a
market
committee.

12. (1) Subject to the other provisions of this Act, the following shall be the duties and functions of a market committee:—

Duties and
functions of
the market
committee.

- (i) to establish ¹[, if so required by the State Government,] market for the market area providing for facilities in connection with the marketing of agricultural produce;
- (ii) to grant or renew licences, in the manner prescribed, to traders, commission agents, brokers, weighmen, measurers, warehousemen, surveyors and other persons or firms referred to in section 13;
- (iii) to administer market committee fund referred to in section 19 and maintain the accounts thereof in the prescribed manner;
- (iv) to maintain and manage the principal market yard including the sub-market yard or yards and to control, regulate and run the market ²[and to regulate the marketing of agricultural produce in the market area] in accordance with the provisions of this Act and the rules made thereunder;
- (v) to keep a set of standard weights and standard measures in each principal market yard and sub-market yard against which weighment and measurement may be checked;
- (vi) to collect and furnish such statistics and information relating to every such market yard and the marketing of agricultural produce as may be required by the Director or any other person authorised by him in this behalf;
- (vii) to publish and disseminate for the benefit of the general public such market information and other instructions as may be issued by the Director in this behalf;
- (viii) to settle disputes between buyers and sellers of agricultural produce or their agents in such manner as may be prescribed;
- (ix) to promote grading and standardisation of agricultural produce in such manner as may be prescribed;
- (x) to control and regulate admission of persons to the principal market yard or sub-market yard or yards and to determine the conditions for the use of the market and to prosecute persons ³[operating] without a valid licence in the market ⁴[area];

¹The words within the square brackets were inserted by s. 7(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words within the square brackets were inserted by s. 7(b), *ibid.*

³The words within the square brackets were within the square brackets was substituted for the word "trading" by s. 7(c)(i), *ibid.*

⁴The word within the square brackets was inserted by s. 7(c)(ii), *ibid.*

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- (xi) to bring, prosecute or defend any suit, action, proceeding, application or arbitration in regard to any matter;
- (xii) to perform such other duties and discharge such other functions as are imposed or conferred upon it by or under this Act or the rules made thereunder;
- ¹(xiii) to frame bye-laws for the purpose of carrying out the provisions of this Act and the rules made thereunder;
- ²(xiv) to inspect and verify scales, weights and measures ³[in use in a market area] and also the books of accounts and other documents maintained by the market functionaries in such manner as may be prescribed.

(2) A market committee may delegate to a sub-committee or sub-committees constituted by it from amongst its members in such manner as may be prescribed, all or any of its functions under this Act in respect of any market over which it has jurisdiction:

Provided that the market committee may accept, reject or revise the decision of such sub-committee or sub-committees.

Power of
market
committee.

⁴12A. Subject to the other provisions of this Act, a market committee may, on inspection and verification, confiscate, in such manner as may be prescribed, scales, weights and measures ⁵[in use in a market area] if any of these does not conform to a standard scale, weight or measure, as the case may be.

13. (1) After six months from the declaration of any area as a market area, no person shall, within the ⁶[market area], carry on business or act as a trader, commission agent, broker, weighman, measurer, warehouseman or surveyor, or sell or purchase agricultural produce, or engage in ⁷[processing or preservation] of agricultural produce, or set up, establish

Licence.

¹Clause (xiii) was inserted by s. 3 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

²Clause (xiv) was inserted by s. 9 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

³The words within the square brackets were substituted for the words "in use in a market" by s. 7(d) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁴Section 12A was inserted by s. 10 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁵The words within the square brackets were substituted for the words "in use in a market" by s. 8 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁶The words within the square brackets were substituted for the words "market proper" by s. 4(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

⁷The words within the square brackets were substituted for the words "processing and preservation" by s. 11(a)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

XXXV of 1972.]

(Section 13.)

or continue a ¹[place] for storage, sale or purchase of any agricultural produce, except, under and in accordance with the prescribed terms and conditions of a licence issued in this behalf by the market committee ²[, notwithstanding anything contained in any other law for the time being in force and] ³[irrespective of any licence required and issued under any law for the time being in force]:

⁴Provided that nothing in this sub-section shall apply to any sale by a producer of his own produce, to retail sale and to purchase by an individual for his own consumption.

(2) Any person desiring to obtain a licence under sub-section (1) may make an application to the market committee in such form and on payment of such fee not exceeding rupees two hundred, as may be prescribed.

(3) On receipt of an application under sub-section (2), the market committee may issue the licence in such form, subject to such terms and conditions and for such period as may be prescribed.

(4) Any licence issued under sub-section (3) may be renewed for such period as may be prescribed, by the market committee from time to time on application made in this behalf by licensee and on payment of a fee equal to the fee payable for the issue of the licence in the first instance⁵[on payment of such fee not exceeding rupees two hundred as the market committee may fix].

(5) The market committee may refuse to issue or renew any, licence under this section in favour of any person if it is satisfied that such person has previously been convicted by a court of law for an offence punishable under this Act.

(6) The market committee may, after giving the holder of a licence under this section an opportunity of showing cause in such manner as may be prescribed, cancel his licence or suspend it for such period as it thinks fit for any breach of the terms and conditions of the licence or for any contravention of the provisions of this Act.

¹The word within the square brackets was substituted for the words "stall, shed or other structure" by s. 9(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words within the square brackets were inserted by s. 9(b), *ibid*.

³The words within the square brackets were inserted by s. 11(a)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴The proviso was added by s. 9(c) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁵The words within the square brackets were substituted for the words "on payment of a fee equal to the fee payable for the issue of the licence for the first instance" by s. 4(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

(Section 14.)

¹(6A) When a licence is cancelled or suspended under sub-section (6), the licensee may appeal, in such manner as may be prescribed, to an officer of the State Government not below the rank of a Superintendent of Agricultural Marketing having jurisdiction over the area, as may be specified by the State Government by an order issued in this behalf, and the decision of such officer shall be final.

(7) Where a licence is cancelled or suspended under sub-section (6), the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

²(8) When a licence is lost, destroyed, torn or defaced, the market committee shall, on application made in this behalf by the licensee, and on payment of such fee as may be prescribed, issue a duplicate licence in the manner prescribed.

Officers and
employees
of the
market
committee.

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

Provided that the State Government may appoint any officer of the ³[Directorate of Agricultural Marketing] as Secretary of the market committee.

* * * * *

⁴(3) The market committee may appoint ⁶{such other officers} and employees as the Board may sanction.

(4) The salaries and allowances of the officers and employees of the market committee shall be paid from the market committee fund and the market committee shall also provide for the payment of leave allowance, pension, gratuity and provident fund to all its officers and employees in accordance with such rules relating to the terms and conditions of service of such officers and employees ⁷[as the market committee may, subject to the approval of the Board, determine].

¹Sub-section (6A) was inserted by s. 11(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Sub-section (8) was inserted by s. 11(c), *ibid.*

³The words within the square brackets were substituted for the words "Directorate of Agriculture" by s. 10(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁴Sub-section (2) was omitted by s. 10(b), *ibid.*

⁵Sub-section (3) was substituted for original sub-section by s. 5(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

⁶The words within the square brackets were substituted for the words "such number of officers" by s. 12(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁷The words within the square brackets were substituted for the words "as may be made by the State Government" by s. 5(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

XXXV of 1972.]

(Section 15.)

¹(5) The market committee or any person dissatisfied with the decision of the Board in respect of any matter under sub-sections (3) and (4) may appeal to the State Government in such manner and within such time as may be prescribed.

15. (1) Every market committee shall hold its meeting at least once in every month.

Meetings of
the market
committee.

²(1A) The Secretary shall fix the agenda and convene the meeting with the approval of the Chairman of the market committee.

(2) The Chairman or in his absence the Vice-Chairman ³[of a market committee] shall preside at every meeting ⁴[of such market committee] and in the absence of both, the members present shall elect one from among themselves to preside at such meeting.

(3) Six members shall form quorum for a meeting of the market committee.

⁵(3A) No business shall be transacted at a meeting of a market committee if there be no quorum and the same shall stand adjourned:

Provided that no quorum shall be necessary in the case of an adjourned meeting.

(4) Every matter coming before the market committee shall ⁶[, subject to the provisions of sub-section (2) of section 5,] be decided by a majority of votes of the members present and voting in the meeting and in the case of equality of votes the president of the meeting shall have a second or casting vote.

⁷(5) The Chairman and the Vice-Chairman of the Board or any person authorised by the Board in this behalf and the Director ⁸[or any person authorised by him in this behalf] shall have the right to attend any meeting of any market committee without any right to vote in such meeting.

¹Sub-section (5) was inserted by s. 12(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Sub-section (1A) was inserted by s. 13(a), *ibid.*

³The words within the square brackets were inserted by s. 13(b)(i), *ibid.*

⁴The words within the square brackets were substituted for the words "of the market committee" by s. 13(b)(ii), *ibid.*

⁵Sub-section (3A) was inserted by s. 13(c), *ibid.*

⁶The words within the square brackets were inserted by s. 11 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁷Sub-section (5) was inserted by s. 5 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

⁸The words within the square brackets were inserted by s. 13(d) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

*The West Bengal Agricultural Produce Marketing
(Regulation) Act, 1972.*

[West Ben. Act

(Sections 16, 17.)

Duties of the
Secretary
and other
officers and
employees.

16. The Secretary and the other officers and employees of the market committee shall discharge such duties as may be entrusted to them by the market committee.

Levy of fee
by market
committee.

¹17. (1) Notwithstanding anything contained in the Bengal Finance (Sales Tax) Act, 1941 or any other law relating to taxation of agricultural produce in force, the market committee shall levy fees on any agricultural produce sold in the market area, at a rate which shall not be²* * * more than two rupees per one hundred rupees of the amount for which the agricultural produce is sold, whether for cash or for deferred payment or for other valuable consideration, irrespective of the fact that the buyer of the produce is the Central Government or the State Government or an agent³[or undertaking] of either of them or a corporation constituted under any law for the time being in force:

Ben. Act VI
of 1941.

⁴Provided that no fee shall be levied in the same market area, more than once, in relation to the same agricultural produce irrespective of the number of transactions.

Explanation I.—For the purpose of this sub-section all agricultural produce taken out, or proposed to be taken out, of a market area shall, unless the contrary is proved, be presumed to have been sold within such area.

Explanation II.—In the determination of the amount of the fees payable⁵[under this sub-section], any fraction of ten paise less than five paise shall be disregarded and any fraction of ten paise equal to or exceeding five paise shall be regarded as ten paise.

Explanation III.—For the purpose of this sub-section all agricultural produce stored in the cold storages within the market area shall, unless the contrary is proved, be presumed to have been stored for the purpose of sale.

(2) The fees referred to in sub-section (1) shall be paid by the purchaser of the agricultural produce concerned⁶* * * in the following manner, namely:—

- (i) when a licensed trader is the buyer of any agricultural produce, he shall pay the fees to the market committee in the prescribed manner within a week from the day of the transaction,

¹Section 17 was substituted for the original section by s. 6 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

²The words "less than one rupee and" were omitted by s. 12 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

³The words within the square brackets were inserted by s. 14(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴Proviso was added by s. 14(b), *ibid.*

⁵Words within the square brackets were substituted for the words "under this Act" by s. 14(c), *ibid.*

⁶The words "and paid" were omitted by s. 14(d)(i), *ibid.*

XXXV of 1972.]

(Section 17A.)

- (ii) when a licensed trader is the seller of any agricultural produce and the buyer is not licensed, the trader shall recover the fees from the buyer and deposit the same in the prescribed manner with the market committee within a week from the day of the transaction,
- (iii) the market committee may authorise its officers or staff or ¹[any other person] to realise the fees directly from the buyer.

Submission
of returns.

²17A. (1) Every licensed trader shall submit to the Secretary returns of turnover in such manner, for such period and by such dates as may be prescribed.

(2) The trader shall before submitting any return of turnover referred to in sub-section (1) pay into the market committee fund the amount of fees due under this Act according to such return; and for such payment a receipt in duplicate shall be issued to the payee. One of the duplicate receipts issued to the payee shall be attached to the return of the turnover to be submitted to the market committee. In case of failure to submit return within the prescribed period, the market committee shall initiate assessment proceedings for that return period soon after the expiry of the time.

(3) If the Secretary is satisfied that the return of turnover submitted by a trader is correct and complete, he may, without requiring the presence of the trader or the production of evidence by him, determine the amount of fees due from the trader.

(4) If the Secretary is not satisfied with the return of turnover submitted by a trader and requires the presence of the trader or the production of evidence by him, he may serve on such a trader a notice in the prescribed form requiring him or his nominee on a date to be specified therein to attend before him and produce or cause to be produced before him, any evidence in support of the return.

(5) On the day specified in the notice issued under sub-section (4) or as soon thereafter as may be, the Secretary, after considering such evidence, oral or documentary, as the trader or his nominee may produce and such other evidence as the Secretary may require on specified points, shall, by an order in writing, assess and determine the fees payable by him.

(6) If a trader fails to submit any return of turnover as required under sub-section (1) or fails to comply with the terms of a notice issued under sub-section (4), the Secretary shall, after giving the trader an opportunity of being heard, make, in the prescribed manner, the assessment of fees

¹The words within the square brackets were substituted for the words "anybody else" by s. 14(d)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Sections 17A to 17D were inserted by s. 7 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

(Sections 17B-17D.)

payable under this Act to the best of his judgement and determine the sum payable by the trader on the basis of such assessment. The Secretary may, in such a case, and in a case where a trader has failed to comply with the provisions of sub-section (2), direct that the trader shall in addition pay, by way of penalty, a sum not exceeding the amount of the fees assessed, if he is satisfied that the failure was unjustified or wilful.

Search and
seizure.

¹17B. The officers or employees of the market committee shall have power to seize any agricultural produce taken, or proposed to be taken, out of a market area in any vehicle, boat or other conveyance, and to search or seize records of market functionaries if such officer or employee has reason to believe that any fees or other amount due to the market committee under this Act in respect of such agricultural produce has not been paid, together with any container or other materials for the packing of commodities. Such seizure shall be forthwith reported by the officer of employee to a Magistrate having jurisdiction to try an offence under this Act and the provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply in relation to the agricultural produce seized as aforesaid as they apply in relation to property seized by a police officer.

2 of 1974.

Inspection of
vehicles,
boats etc.

¹17C. At any time when so required by any officer or employees of the market committee empowered by the State Government in this behalf, the driver or any other person-in-charge of any vehicle, boat or other conveyance which is taken or proposed to be taken out of a market area, shall stop the vehicle, boat or other conveyance, as the case may be, and keep it stationary as long as may reasonably be necessary and allow the officer or employee empowered as aforesaid to examine the contents in the vehicle, boat or other conveyance and inspect all records relating to the agricultural produce carried, which are in the possession of such driver or other person-in-charge, who shall, if so required, give his name and address and the name and address of the owner of the vehicle, boat or other conveyance.

Appeal.

¹17D. Any person aggrieved by an order made under sections 17A, 17B or 17C may appeal to ²[an officer of the State Government] not below the rank of a Superintendent of Agricultural Marketing, as may be specified by the State Government by an order issue in this behalf, having jurisdiction over the area ³[and the decision of such officer shall be final].

¹See foot-note 2 on page 409, *ante*.

²The words within the square brackets were substituted for the words "an appellate authority" by s. 15(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

³Words within the square brackets were inserted by s. 15(b), *ibid*.

XXXV of 1972.]

(Sections 18-20.)

Provided that no appeal against an order made under sections 17A, 17B or 17C shall be entertained by ¹[such officer] unless he is satisfied that such amount of fee as the appellant may admit to be due from him has been paid.

18. (1) A market committee may, with the previous sanction of the State Government, ²[raise money, by taking loan from the State Bank of India or any other bank or otherwise, required] for carrying out the purposes of this Act on the security of any property vested in and belonging to such committee.

Power to borrow.

(2) A market committee may, subject to such conditions as may be imposed by the State Government, obtain loan from the State Government.

³19. (1) All moneys received by a market committee shall be paid into a fund to be called the market committee fund and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund.

Market committee fund.

(2) Out of the surplus, if any, remaining with the market committee at the close of each market year after meeting all the expenditure incurred for the purposes of this Act during the said year, rupees one thousand shall be credited to the reserve fund of the market committee and out of the excess amount, if any, twenty *per cent.* shall be paid into the West Bengal State Marketing Board Fund.

* * * * *

20. ⁴(1) Subject to the provisions of section 19, the market committee fund may be applied for the following purposes only, namely:—

Application of the market committee fund.

- ⁵(i) acquisition, and taking on lease, of market, and management of market;
- (ii) maintenance and improvement of the market;
- (iii) construction and repair of buildings and installation and repair of equipments which are necessary for the purposes of the market and for the health, convenience and safety of the persons using it;

¹The words within the square brackets were substituted for the words "the said appellate authority" by s. 15(c) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words within the square brackets were substituted for the words "raise money required" by s. 8 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³Section 19 was substituted for the original section by s. 6 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

⁴Proviso was omitted by s. 9 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

⁵Sub-section (1) was substituted for the original sub-section by s. 10, *ibid.*

⁶Clause (i) was substituted for original clause by s. 16(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

(Section 20.)

- (iv) provision for, and maintenance of, standard weights and measures;
- (v) payment of pay, leave allowance, gratuity, compassionate allowance and contribution towards leave allowance, compensation for injuries and death resulting from accidents while on duty, medical aid, pension or provident fund of the persons employed by the market committee;
- (vi) payment of interest on loans that may be raised for carrying out the purposes of this Act and creation of a fund for repayment of such loans;
- (vii) collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the agricultural produce concerned;
- (viii) providing facilities, such as shelter, parking accommodation and water for the persons, draught cattle, vehicles and pack animals coming or being brought to the market and construction and repair of approach roads, culverts, bridges and such other purposes;
- (ix) meeting the expenses incurred in maintenance of office and in auditing the accounts of the market committee;
- (x) publicity in favour of agricultural improvements and thrift;
- (xi) fostering co-operative marketing and assisting cooperative marketing societies in the procurement and organisation of profitable disposal of produce particularly the produce belonging to small and marginal farmers;
- (xii) prevention, in conjunction with other agencies, State, Central and others of distress sale;
- (xiii) meeting any legal expenses incurred by the committee;
- (xiv) incurring all expenses for training in marketing of the agricultural produce;
- (xv) payment of travelling and sitting allowances to the members and employees of the market committee in such manner and at such rates as may be prescribed;
- (xvi) grant of loans and advances to the employees;
- (xvii) performing, with the previous sanction of the Board, any other function as may be necessary to carry out the purposes of this Act.

XXXV of 1972.]

(Section 20A.)

- ²(1A) Every market committee shall, with the previous approval of the Board, spend every year fifty *per cent.* of the fees referred to in sub-section (1) of section 17 for providing facilities with a view to ensuring smooth marketing of agricultural produce or for servicing loans taken on that account. If any market committee fails to spend the amount or portion of it for the aforesaid purposes, the same amount of the unspent portion shall be utilised for other purposes referred to in sub-section (1):

Provided that the Board may from time to time review the requirements of the persons using the market area and direct the market committee to provide such facilities as the Board may consider necessary and any such direction by the Board shall be binding on the market committee.

(2) The market committee fund shall be operated by the Chairman jointly with the Secretary ²[and in the absence of the Secretary, with another member] of the market committee and the accounts thereof shall be kept and audited in such manner as may be prescribed.

³20A. (1) The Chairman of the market committee shall, at a special meeting to be held for the purpose before the fifteenth day of ⁴[November] in each year, lay before the market committee a budget of the committee for the next market year.

Budget of
the market
committee.

(2) The market committee shall, within the seventh day of ⁵[December] in each year, consider the budget laid before it and accept it with or without modifications.

⁶(3) Every budget as accepted by the market committee shall be submitted to the Board within the twentieth day of December in each year and the Board shall, within the twentieth day of January of the following year, either sanction the Budget as accepted by the market committee and communicate necessary intimation in this behalf to the market committee or return it to the market committee for making such modifications therein as the Board may deem fit to specify.

⁷(4) Where the budget is returned to the market committee by the Board for making any modification therein, the market committee shall,

¹Sub-section (1A) was inserted by s. 16(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words within the square brackets were substituted for the words "or another member" by s. 16(c), *ibid.*

³Section 20A was inserted by s. 7 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

⁴The word within the square brackets was substituted for the word "January" by s. 11(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

⁵The word within the square brackets was substituted for the word "February" by s. 11(ii), *ibid.*

⁶Sub-section (3) was substituted for previous sub-section by s. 17(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁷Sub-section (4) was substituted for previous sub-section by s. 17(b), *ibid.*

(Sections 20B, 21 and 22.)

within the fifteenth day of February, make such modifications and submit, within the first day of March, the budget as so modified to the Board and the Board shall, then, within the thirty-first day of March, sanction the same and communicate necessary intimation in this behalf to the market committee.

(5) The Chairman of the market committee may, at any time during the year for which a budget has been sanctioned by the Board, lay before the market committee a supplementary budget, and the provisions of sub-section (2), sub-section (3) and sub-section (4) shall *mutatis mutandis* apply to such supplementary budget.

(6) No sum shall be expended by or on behalf of the market committee unless the expenditure is covered by a specific provision in the budget sanctioned by the Board:

Provided that the market committee may sanction any re-appropriation from one head of expenditure to another or from the provision made for one scheme to the provision made for another, with the previous approval of the Board.

Audited
statement of
accounts and
annual
report.

¹20B. The Secretary of a market committee shall, at a special annual meeting, place before the market committee the audited statement of accounts and annual administration report in respect of such market committee.

Execution of
contract.

21. (1) Every contract required to be entered into by the market committee shall be in writing and signed on behalf of the market committee by its Chairman ²[, Secretary] and two other members.

(2) No contract other than a contract as provided in sub-section (1) shall be binding on the market committee.

Supersession
of the
market
committee.

³22. (1) If at any time the State Government considers it necessary so to do in the public interest, it may, by notification, supersede the market committee, the members of which shall forthwith vacate their offices, and proceed to reconstitute it in accordance with the provisions of this Act and appoint a person to perform the functions of the market committee until it is so reconstituted.

(2) For the avoidance of doubts it is hereby declared that a notification of supersession under sub-section (1) shall not effect or imply in any way the dissolution of the market committee as a body corporate.

¹Section 20B was inserted by s. 18 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The word within the square brackets was inserted by s. 19, *ibid*.

³Section 22 was substituted for original section by s. 20, *ibid*.

XXXV of 1972.]

(Sections 23-27.)

23. The market committee shall furnish such information in connection with its duties and functions as the Director or the State Government or any officer appointed by the State Government may in this behalf call for.

Market committee to furnish information to State Government.

24. (1) The Director or any other officer not below the rank of [a Superintendent of Agricultural Marketing], authorised by the State Government in this behalf by general or special order, may inspect or cause to be inspected the accounts of the market committee or institute an enquiry into the affairs of the market committee and require the market committee or its Chairman to do a thing or to refrain from doing a thing which the Director or other officer considers necessary or desirable in the interest of the market or the market committee.

Power of inspection.

s of 1908.

(2) The Director or any officer authorised by the State Government under sub-section (1) shall, for the purposes of the said sub-section, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses.

25. The Director may, for reasons to be recorded in writing, suspend or cancel any licence issued under section 13 and may take such other steps as he may deem fit in the interest of the market:

Director may cancel or suspend any licence.

Provided that before passing any order under this section the Director shall give a reasonable opportunity to the licensee of being heard.

26. Where the market committee is unable due to any order or decision of a court or any other reason to perform the duties imposed upon it by or under this Act the State Government shall make such alternative arrangement as it deems necessary for the due performance of the duties and functions of such market committee.

Alternative arrangements for performing the duties of the market committee.

27. (1) The Director or the Board may at any time call for and examine any record from a market committee for the purposes of satisfying himself or itself, as the case may be, as to the legality or propriety of any decision or order passed by such market committee and may, after giving an opportunity to the market committee of being heard, pass such order thereon as considered fit and proper:

Supervisory power of the Director and the Board and appeal to the State Government.

¹The words within the square brackets were substituted for the words "an Assistant Director of Agriculture" by s. 8 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

²Section 27 was substituted for original section by s. 21 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

(Sections 28-31.)

Provided that the Director or the Board when he or it, as the case may be, calls for any record from a market committee, shall also notify the other about such action and the other, as the case may be, shall not in such a case take any action.

(2) The Director or the Board may, pending the examination and disposal of the matter under sub-section (1), direct that the execution of the decision or order of the market committee be stayed.

(3) The market committee, if dissatisfied with the decision of the Director or the Board under sub-section (1), or any person aggrieved by the refusal to stay the execution of the decision or order of the market committee, may prefer an appeal to the State Government within such time and in such manner as may be prescribed.

Acquisition
of land by
market
committee.

28. ¹(1) Where any land is needed for the purposes of a market committee the State Government may proceed to acquire the same under the provisions of the Land Acquisition Act, 1894 ²[the West Bengal Land (Requisition and Acquisition) Act, 1948], or any other law for the time being in force.

¹(2) Any land so acquired shall be transferred to the market committee on such terms and conditions as may be agreed upon between the State Government and the market committee.

I of 1894.
West Ben.
Act II of
1948.

Power to
exempt.

29. The State Government may, by notification ³* * * * * and subject to such conditions and restrictions as it may think fit to impose, exempt any class of persons, commodity or trades from all or any of the provisions of this Act. ⁴[Such exemption order shall also be published in the market area or the office of the local authority in such manner as may be prescribed.]

Recovery of
sums due.

30. Every sum due to a market committee under this Act shall be recoverable as an arrear of land revenue under the provisions of the Bengal Public Demands Recovery Act, 1913.

Ben. Act III
of 1913.

Members and
employees of
a market
committee to
be public
servants.

31. Every member of a market committee and every officer and employee of a market committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

¹Section 28 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) was added by s. 22 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words, figures and brackets within the square brackets were inserted by s. 12 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³The words "in the *Official Gazette*" were omitted by s. 23(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴The words within the square brackets were inserted by s. 23(b), *ibid.*

XXXV of 1972.]

(Sections 32-34.)

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

Bar of suit in
absence of
notice.

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

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 38 of the Specific Relief Act, 1963.

47 of 1963.

33. No trade allowance, fee or charge other than such as may be determined by a market committee shall be recovered in any transaction within a market area.

Prohibition
of trade
allowance,
fee or
charge.

34. (1) Whoever contravenes ³[the provisions of sub-section (2) of section 4 or] the provisions of section 13 shall, on conviction, be punishable 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 extend to fifty rupees per day during which the contravention continues after the first conviction.

Penalty.

¹Section 33 was substituted for original section by s. 24 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Section 34 was substituted for original section by s. 13 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³The words, figures and brackets within the square brackets were inserted by s. 13 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

(Section 34.)

(2) Whoever in contravention of the provisions of section 33 ¹[recovers any trade allowance, fee or charge] shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both ²{and in case of a continuing offence with a further fine which may extend to fifty rupees for every day during which such offence continues after the first conviction.]

(3) Whoever contravenes any condition of a licence granted by a market committee shall, on conviction, be punishable with fine, which may extend to five hundred rupees.

(4) Whoever obstructs any authorised person while discharging his duty under section 16 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

(5) Whoever fails to pay any fee or other sum due to the market committee under the provisions of this Act or the rules or bye-laws made thereunder or evades the payment due towards remuneration to any weighman or palladar, or demands remuneration without authority of the seller or buyer for his employment or demands remuneration otherwise than in accordance with the provisions of the rules and bye-laws made under this Act shall, on conviction, be punishable with fine which may extend to five hundred rupees and in case of a continuing offence with a further fine which may extend to fifty rupees for every day during which such offence continues after the first conviction.

(6) Whoever contravenes any provisions of this Act or any rule or bye-laws made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which shall not be less than twenty rupees but may extend to two hundred rupees.

(7) All offences punishable under this Act or the rules made thereunder shall be cognisable and bailable.

¹The words within the square brackets were substituted for the words "makes or recovers any trade allowance," by s. 25(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words within the square brackets were inserted by s. 25(b), *ibid.*

XXXV of 1972.]

(Sections 35, 36.)

(8) The market committee may accept from any person who has
* committed or is reasonably suspected of having committed an offence
against this Act or the rules or bye-laws made thereunder by way of
composition of such offence—

(a) where the offence consists of the failure to pay or evasion
of any fee or other amount recoverable under this Act or
the rules or bye-laws made thereunder, in addition to the
fee or other amount so recoverable a sum not exceeding five
hundred rupees or double the amount of fee or other amount
whichever is greater, and

(b) in other cases, a sum of money not exceeding five hundred
rupees.

(9) Whenever any person is convicted of any offence under this Act
or rules or bye-laws made thereunder, the Magistrate shall, in addition
to any fine which may be imposed, direct the person to pay to the market
committee the amount of fees or any other money that may be due from
him under this Act and the rules or bye-laws made thereunder, and also
such costs of prosecutions as may be fixed by the Magistrate, within such
time as may be fixed by him and on failure to pay such dues within such
time, the Magistrate shall impose such further fine or imprisonment or
both as he may think fit.

(10) Any police officer may arrest any person committing any offence
against any provision of this Act or any rule or bye-law made thereunder
and produce him before the nearest Magistrate for necessary orders and
communicate that information to the market committee forthwith.

35. Subject to the other provisions of this Act the State Government
may delegate any of its powers or functions under this Act to the Director.

Power to
delegate.

36. (1) The State Government may, by notification * * * *
establish a Board to be known as the West Bengal State Marketing
Board.

Constitution
of the Board.

¹Sections 36 to 36P were substituted for original section 36 by s. 9 of the West Bengal
Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act
XXXIV of 1975).

²The words "in the *Official Gazette*" were omitted by s. 26(a) of the West Bengal
Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act
XXVII of 1978).

*The West Bengal Agricultural Produce Marketing
(Regulation) Act, 1972.*

[West Ben. Act

(Section 36.)

(2) The Board shall be a body corporate by the aforesaid name, shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire, hold and dispose of property, both movable and immovable, enter into contracts and do all such things as may, from time to time, be necessary for carrying out the purposes of this Act.

(3) The Board ¹[shall be constituted by the State Government by notification and] shall consist of members, both officials and non-officials, not more than 20 in number, of whom not more than 10 shall be non-officials.

(4) The members of the Board shall be appointed by the State Government.

(5) The State Government shall appoint one from among the members of the Board to be the Chairman ²[, one to be the Vice-Chairman and another to be the Secretary] of the Board.

(6) The term of office of the members of the Board shall be three years from the date of ³[notification under ⁴{sub-section (3)}] and shall include any further period which may elapse between the expiration of such period of three years and the date of the first meeting of the succeeding Board at which a quorum is present:

Provided that a member of the Board may, on the expiry of his term of office, be re-appointed.

⁵(7) The names of Chairman, Vice-Chairman and Secretary appointed under sub-section (5) with the other members of the Board shall be declared by the State Government by notification, but the Board shall be deemed to be duly constituted from the date of notification under ⁶[sub-section (3)]:

¹The words within the square brackets were inserted by s. 14(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words within the square brackets were substituted for the words "and another to be the Vice-Chairman" by s. 14(1) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³The words, figure and brackets "notification under sub-section (1)" were substituted for the words "publication of their names in the *Official Gazette*" by s. 26(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁴The word, figure and brackets within the second brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 14(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

⁵Sub-section (7) was substituted for original sub-section by s. 26(c) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

⁶The word, figure and brackets within the square brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 14(c)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

XXXV of 1972.]

(Section 36A.)

² Provided that the notification constituting the Board prior to the commencement of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981, shall be deemed to have been issued under sub-section (3).

(8) A member of the Board including ³[the Chairman, the Vice-Chairman and the Secretary] may, by writing under his hand addressed to—

- (a) the State Government, in case of ³[the Chairman, the Vice-Chairman and the Secretary], and
- (b) the Chairman, in case of the other members of the Board, resign his office and on such resignation being accepted, he shall be deemed to have vacated his office.

(9) If at any time a vacancy occurs in the office of a member of the Board by reason of the non-acceptance of office or by the removal, death or resignation, the vacancy shall be filled up by fresh appointment of a person who shall hold office for the unexpired period of the term of office of the member whose place he fills.

⁴36A. (1) The Board shall meet ⁵[as and when considered necessary by the Chairman but at least once in a quarter]:

Meetings of
the Board.

Provided that the Chairman may, for the purpose of disposing of outstanding business of the Board or for any other purpose, and shall, on receipt of a written requisition, signed at least by majority of the members of the Board and specifying the agenda, call a special meeting of the Board.

(2) The Chairman, and in the absence of the Chairman, the Vice-Chairman, of the Board and in the absence of both Chairman and the Vice-Chairman, any member chosen by the members of the Board present in the meeting for the purpose shall preside over the meeting of the Board.

¹The Proviso was inserted by s. 14(c)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1981 (West Ben. Act XXI of 1981).

²The words within the square brackets were substituted for the words "the Chairman and the Vice-Chairman" by s. 14(2)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³The words within the square brackets were substituted for the words "the Chairman and the Vice-Chairman" by s. 14(2)(ii), *ibid*.

⁴See foot-note 1 on page 419, *ante*.

⁵The words within the square brackets were substituted for the words "at least once in each month" by s. 15 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

*The West Bengal Agricultural Produce Marketing
(Regulation) Act, 1972.*

[West Ben. Act

(Section 36A.)

(3) All questions in the meeting shall be decided by majority of votes, the person presiding having a second or casting vote in cases of equality of votes.

(4) (a) The number of members necessary to form a quorum shall be such as may be prescribed.

(b) If there be no quorum in the meeting, no business shall be transacted at such a meeting and the meeting shall be adjourned to another date:

Provided that no quorum shall be necessary in the case of such adjourned meeting.

(5) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(6) No person, who—

- (a) is an employee of the Board, or
- (b) has been declared by a competent court to be of unsound mind, or
- (c) is an undischarged insolvent, or
- (d) has been convicted by a court of law for an offence involving moral turpitude,

shall be eligible to be appointed as a member of the Board.

(7) (a) The State Government may, by notification
* * * * *, remove any member of the Board from his office if such member has, in the opinion of the State Government, been guilty of misconduct or neglect of duty or has become disqualified within the meaning of sub-section (6):

Provided that the State Government shall, before passing any order under this clause, give the person concerned an opportunity of being heard.

(b) No member of the Board who has been removed from his office on any of the grounds mentioned in clause (a) shall be re-appointed to the Board.

(8) No action of the Board shall be called in question merely by reason of the existence of any vacancy in, or any defect in the constitution of, the Board at the time of taking such action.

'The words "in the *Official Gazette*" were omitted by s. 27 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

XXXV of 1972.]

(Sections 36B, 36C.)

- 36B. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders, not inconsistent with this Act, as may appear to it to be necessary or expedient for the purpose of removing such difficulty.

Power to
remove
difficulty.

36C. (1) Subject to the control of the State Government, the Board shall have the ²[powers]—

Powers and
duties of the
Board.

- (a) to exercise superintendence and control over the business and affairs of the market committees,
- (b) to inspect or cause to be inspected the business and affairs of the market Committees including their accounts and the markets established by them,
- (c) to institute an inquiry into the affairs of any market committee, the inquiring officer having the same power, as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the matters referred to in sub-section (2) of section 24 of this Act.
- ³(cc) to approve the place or places of transaction in agricultural produce within such distance of a principal market yard or a sub-market yard as may be determined by the market committee,
- (d) for carrying out the purposes of this Act, to issue directions, from time to time, to the market committees, to be binding upon such committees, and
- (e) to do, in relation to, or in connection with, the regulation of marketing of agricultural produce in West Bengal, such other acts as the Board may deem necessary.

5 of 1908.

(2) It shall be the duty of the Board—

- (a) to supervise, control and co-ordinate the activities of the market committees,
- ⁴(aa) to review the requirements of persons using a market and to direct the market committee to provide facilities for the marketing of agricultural produce,
- ⁴(aaa) to approve the programme drawn up by a market committee for the purpose of providing facilities to persons using the market area,

¹See foot-note 1 on page 419. *ante*.

²The word within the square brackets was substituted for the word "power" by s. 28(a)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

³Clause (cc) was inserted by s. 28(a)(ii), *ibid*.

⁴Clauses (aa) and (aaa) were inserted by s. 28(b). *ibid*.

(Section 36D.)

- (b) to provide for expert technical assistance or guidance for efficient working of the market committees,
- (c) for the efficient functioning of the market committees, to arrange for the training of the officers, employees and technical personnel of such committees, and if necessary, to establish under its direct charge and control, for such training purposes, and for affording practical guidance to such committees, a model market in accordance with the provisions of this Act,
- (d) to educate the public and impress upon them the advantages and merits of patronising the markets established by the market committees,
- (e) to collect and furnish such statistics and marketing information in relation to or in connection with market committees including the markets established by such committees as may be required by the Board for its efficient and effective functioning under this Act and to publish and disseminate for the benefit of the general public any statistics and marketing information, and such other instructions as may be issued by the Board from time to time,
- (f) to help the market committees with expert advice and guidance in grading and standardisation of the agricultural produce and to bring about, as far as practicable, uniformity in respect thereof in all the markets established by the market committees in the State,
- (g) to initiate, from time to time, such other actions as the State Government or the Board may deem necessary to carry out the purposes of this Act.

(3) (a) If the State Government considers it necessary so to do, it may, by notification ¹* * *, delegate, subject to such restrictions as it may deem fit to impose, to the Board all or any of the powers exercisable by it by or under this Act.

(b) While exercising the powers referred to in clause (a), the Board shall be under the control of the State Government.

Delegation
of the
Board's
powers and
duties.

²**36D.** For the purpose of efficiently discharging its business under this Act, the Board may, from time to time, by order, delegate, under such restrictions, if any, as it may think fit to impose, any of its powers and duties conferred and imposed on it by this Act to the Chairman of the Board ³[or to Secretary of the Board or to the Chief Executive Officer.] or to any other officer of the Board or to a sub-committee or sub-committees formed from amongst the members of the Board.

¹The words "in the *Official Gazette*" were omitted by s. 28(c) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²See foot-note 1 on page 419, *ante*.

³The words within the square brackets were substituted for the words "or to the Chief Executive Officer" by s. 16 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

XXXV of 1972.]

(Sections 36E-36G.)

36E. (1) The Board shall have a Chief Executive Officer to be appointed by the State Government on such terms and conditions as may be prescribed.

Chief Executive Officer and other officers and employees of the Board.

(2) The Board may, for the efficient discharge of its business, appoint other officers, technical personnel, and employees under such terms and conditions as may be determined by the Board with the approval of the State Government.

(3) The Chief Executive Officer and other officers, technical personnel, and employees of the Board shall discharge such duties as may be entrusted to them by the Board.

36F. (1) For carrying out the purposes of this Act, the Board may, with the previous approval of the State Government, raise loans in the open market or from any financial institutions, and the State Government may stand guarantee for payment of the principal amount of such loan and for payment of interest, subject to such terms and condition as it may determine.

Power to borrow money.

(2) The State Government may advance money or grant loans to the Board on such terms and conditions as may be determined by the State Government.

(3) The Board may advance money or grant loans to the market committees, subject to such terms and conditions as the Board may determine.

(4) Notwithstanding anything contained in any other law for the time being in force, every debt arising out of any loan taken by the Board from the State Government or any financial institution for carrying out the purposes of this Act shall—

(a) have priority over all other debts whether secured or unsecured, and

(b) be a preferential debt within the meaning of section 530 of the Companies Act, 1956,

1 of 1956.

and such debts shall rank equally among themselves and be paid in full out of the assets of the Board unless such assets are insufficient to meet them, in which case they shall abate in equal proportion.

36G. (1) The Board shall have a Fund to be called the West Bengal State Marketing Board Fund.

Fund of the Board.

(2) (a) All moneys received by the Board shall be paid into the West Bengal State Marketing Board Fund and all expenditure incurred by the Board under or for the purposes of this Act shall be defrayed out of the said Fund. * * * * *

¹See foot-note 1 on page 419, ante.

²The words "Any surplus remaining with the Board at the end of the market year shall be utilised in such manner as may be prescribed." were omitted by s. 17(1)(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

(Section 36G.)

¹(b) The West Bengal State Marketing Board Fund shall be operated by the Chief Executive Officer of the Board jointly with such an official member of the Board as the Board may determine and the accounts thereof shall be kept in such manner as may be approved by the Board:

¹Provided that the Board may also authorise another official member to operate the fund jointly with the Chief Executive Officer in case of absence of the official member determined in the aforesaid manner.

(c) A copy of the audited accounts, along with the auditor's report thereto shall be, as soon as may be, forwarded to the State Government, and any direction issued by the State Government in relation thereto shall be forthwith carried out by the Board.

(d) The accounts of the Board in respect of each market year shall be audited within three months of the closing of the market year, by such auditor as may be approved by the State Government, and the fees payable to such auditor and the other expenditure incurred for audit shall be paid out of the West Bengal State Marketing Board Fund.

(e) The Board shall cause to be produced all accounts, registers, documents, vouchers, receipts and other relevant papers which may be called for by the auditor for the purpose of audit. Any explanation called for by the auditor for the settlement of any discrepancy in the accounts shall be immediately furnished to him.

(f) The auditor shall have the same rights and privileges and authority in connection with audit of the accounts of the Board as the Comptroller and Auditor-General of India has with the audit of Government accounts.

(g) The West Bengal State Marketing Board Fund shall be applied to enable the Board to carry out the purposes of this Act.

²(3) The West Bengal State Marketing Board Fund shall be utilised for the following purposes, namely:—

- (i) better marketing of agricultural produce,
- (ii) marketing of agricultural produce on co-operative lines and assisting the co-operative marketing societies in the procurement of produce belonging to small and marginal farmers and their disposal.

Explanation.—In this clause, 'small farmer' shall mean a farmer who possesses more than two hectares but less than four hectares if he is a member of any of the Scheduled Tribes, and more than one hectare but less than two hectares in other cases, of land, either as an owner or as a *raiyyat* or as a share-cropper and 'marginal farmer' shall mean a farmer who possesses not more than two hectares if he is a member

¹Clause (b) with the proviso was substituted for original clause by s. 17(1)(ii) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

²Sub-section (3) was inserted by s. 17(2), *ibid*.

XXXV of 1972.]

(Section 36G.)

of any of the Scheduled Tribes, and one hectare in other cases, of land, either as an owner or as a *raiyat* or as a share-cropper;

- (iii) taking of steps to stop distress sale in conjunction with other agencies, State or Central;
- (iv) provision for transport and storage facilities;
- (v) collection and dissemination of market rates and news;
- (vi) grading and standardisation of agricultural produce;
- (vii) general improvements in the markets or the respective market areas;
- (viii) participation in any scheme designed to augment and improve production and betterment of agricultural produce;
- (ix) subsidising the implementation of production oriented schemes such as small irrigation, spraying, drainage, in the hinterland of the markets;
- (x) acquisition, establishment or management of the retail markets, periodic *hats* and fairs located in the market areas;
- (xi) maintenance of the office of Board and construction and repair of its office buildings, rest house and staff quarters;
- (xii) giving aid to financially weak market committees in the shape of loans and grants;
- (xiii) payment of salary, leave allowance, gratuity, compassionate allowance, compensation for injuries or death resulting from accidents while on duty, medical allowance and pension or provident fund to the persons employed by the Board and leave and pension contribution to Government servants on deputation;
- (xiv) payment of travelling and other allowances to the members of the Board, its officers and employees;
- (xv) carrying out of propaganda, demonstration and publicity in favour of agricultural improvements;
- (xvi) meeting any legal expenses incurred by the Board;
- (xvii) imparting education in marketing or agriculture;
- (xviii) construction of godowns;
- (xix) granting of loans and advances to the employees;
- (xx) meeting expenses incurred in auditing the accounts of the Board;
- (xxi) carrying out, with the previous sanction of the State Government, any other purpose which is calculated to promote the general interest of the Board and the market committee or the national or public interest.

(Sections 36H, 36I.)

Budget.

2.

¹**36H.** (1) The Chairman shall, at a special meeting to be held for the purpose before ²[the fifteenth day of December] in each year, lay before the Board a budget of the Board for the next Market year.

(2) The Board shall, within ³[the seventh day of January] in each year, consider the budget laid before it and accept it with or without modifications.

(3) Every budget as accepted by the Board shall be immediately submitted to the State Government, and the State Government may, as expeditiously as possible, sanction the budget as accepted by the Board on return it to the Board for making such modifications therein as the State Government may deem fit to specify.

(4) Where a budget is returned to the Board by the State Government for making any modifications therein, the Board shall forthwith make such modifications and submit the budget as so modified to the State Government, and the State Government may, then, as expeditiously as possible, sanction the same.

(5) The Chairman may, at any time during the year for which a budget has been sanctioned by the State Government, lay before the Board a supplementary budget, and the provisions of sub-section (2), sub-section (3) and sub-section (4) shall *mutatis mutandis* apply to such supplementary budget.

(6) No sum shall be expended by or on behalf of the Board unless the expenditure is covered by a specific provision in the budget sanctioned by the State Government:

Provided that the Board may sanction any reappropriation from one head of expenditure to another or from the provision made for one scheme to the provision made for another, with the previous approval of the State Government.

Supersession
of the Board.

⁴**36I.** (1) If at any time the State Government considers it necessary so to do in the public interest, it may, by notification, supersede the Board, the members of which shall forthwith vacate their offices, and proceed to reconstitute it in accordance with the provisions of this Act and appoint a person to perform the functions of the Board until it is so reconstituted.

¹See foot-note 1 on page 419, *ante*.

²The words within the square brackets were substituted for the words "the fifteenth day of January" by s. 18(i) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1977 (West Ben. Act XII of 1977).

³The words within the square brackets were substituted for the words "the seventh day of February" by s. 18(ii), *ibid*.

⁴Section 36I was substituted for original section by s. 20 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

XXXV of 1972.]

(Sections 36J-36P.)

(2) For the avoidance of doubts it is hereby declared that a notification of supersession under sub-section (1) shall not effect or imply in any way the dissolution of the Board as a body corporate.

'36J. The Board shall furnish such information in connection with its duties and functions as the State Government or any officer appointed by the State Government in its behalf may call for.

Furnishing of information by the Board.

'36K. At the end of each market year, the Board shall, as soon as may be, submit to the State Government an annual administration report in respect of working of the Board, and the State Government shall, as soon as may be, lay the said report before the State Legislative Assembly.

Annual administration report.

'36L. (1) Every contract required to be entered into by the Board shall be in writing and signed on behalf of the Board by its Chairman and two other members.

Execution of contract.

(2) No contract other than a contract as provided in sub-section (1) shall be binding on the Board.

Ben. Act III of 1913.

'36M. Every sum due to the Board under this Act shall be recoverable as an arrear of land revenue under the provisions of the Bengal Public Demands Recovery Act, 1913.

Recovery of sums due.

45 of 1860.

'36N. Every member of the Board and every officer and employee of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Member, officer and employee of the Board to be public servants.

'36O. No person shall bring any suit against the Board or against any officer or employee of the Board or any person acting under the orders of the Board for anything done or purporting to have been done in pursuance of this Act without giving to the Board, officer, employee or person two months' previous notice in writing of the intended suit and of the cause thereof, or after the expiry of a period of six months from the date of the act complained of.

Bar of suits in absence of notice.

'36P. (1) The State Government, with a view to satisfying itself that the powers and duties of the Board are exercised and performed properly, may, at any time, appoint any person or persons to make inquiries into all or any of the activities of the Board in such manner as may be prescribed and to report to the State Government the result of such inquiries.

Power of State Government to hold inquiry.

¹See foot-note 1 on page 419, ante.

(Sections 37, 38.)

(2) The Board shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before the person or persons any document or information in the possession of the Board, if such person or persons so demand for the purpose of such inquiries.

Act to
override
other laws.

37. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract, express or implied, or in any instrument and notwithstanding any custom or usage to the contrary.

Power to
make rules.

38. (1) The State Government may, by notification ¹* * * * *, make rules for carrying out the purposes of this Act.

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

- (a) the manner of controlling, regulating and running a market, settling disputes between buyers and sellers, promoting, grading and standardisation of agricultural produce, other duties and functions of the market committee, ²[the manner of inspection and verification of scales, weights and measures, books of accounts and other documents, and the manner of delegating functions by a market committee in favour of a sub-committee, referred to in clauses (iv), (viii), (ix), (xii) and (xiv) of sub-section (1), and sub-section (2) respectively of section 12;]
- (b) form of application for obtaining a licence and the fee payable for it, form for granting a licence and the terms and conditions subject to which the licence is to be granted, ³[the manner of showing cause against cancellation of a licence, the manner of appeal, and the fee payable for a duplicate licence and the manner of issuing a duplicate licence, referred to in sub-sections (2), (3), (6), (6A) and (8) respectively of section 13;]

¹The words "in the *Official Gazette*" were omitted by s. 30(1) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²The words, figures and brackets within the square brackets were substituted for the words, figures and brackets "and the manner of delegating functions by a market committee in favour of a sub-committee, referred to in clauses (iv), (viii), (ix) and (xii) of sub-section (1), and sub-section (2) respectively of section 12;" by s. 30(2)(a), *ibid*.

³The words, figures and letters within the square brackets were substituted for the words, figures and brackets "and the manner of showing cause against cancellation of a licence, referred to in sub-section (2), (3) and (6) respectively of section 13;" by s. 30(2)(b), *ibid*.

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- (c) terms and conditions for the appointment of a Secretary and the payment of leave allowance, pension, gratuity and provident fund to the officers and employees of the market committee referred to in sub-sections (1) and (4) respectively¹[and the manner and time of appeal referred to in sub-section (5) of section 14;]
- (d) the manner of utilising surplus fund of the market committee referred to in section 19;
- (e) travelling and other allowances of the members of the market committee and the manner of keeping and auditing accounts of the market committee referred to in clause (vii) of sub-section (1), and sub-section (2) of section 20;
- ²(ee) the manner and time of appeal referred to in sub-section (3) of section 27;
- | | | | | | | |
|----|---|---|---|---|---|---|
| 3* | * | * | * | * | * | * |
| 4* | * | * | * | * | * | * |
- ⁵(h) the number of members necessary to form a quorum referred to in clause (a) of sub-section (4), and the times and places and the rules of procedure in regard to the transaction of business to be observed, referred to in sub-section (5), of section 36A;
- ⁵(h1) the terms and conditions of appointment of the Chief Executive Officer referred to in sub-section (1) of section 36E;
- ⁵(h2) the manner in which the surplus mentioned in clause (a) of sub-section (2) of section 36G shall be utilised and the manner in which the accounts of the Board referred to in clause (b) of sub-section (2) of section 36G is to be kept;
- ⁵(h3) the manner in which inquiries into all or any of the activities of the Board shall be made under sub-section (1) of section 36P;
- (i) any other matter which has to be or may be prescribed.

¹The words, figures and brackets within the square brackets were substituted for the words and figures "of section 14;" by s. 30(2)(c), of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

²Clause (ee) was inserted by s. 30(2)(d), *ibid.*

³Clause (f) was omitted by s. 30(2)(e), *ibid.*

⁴Clause (g) was omitted by s. 30(2)(f), *ibid.*

⁵Clauses (h) to (h3) were substituted for original clause (h) by s. 10 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

(Sections 38A, 39.)

Power to
make bye-
laws.

38A. (1) Subject to the provisions of this Act and the rules made thereunder, a market committee may make bye-laws for—

- (a) the regulation and conduct of its business,
- (b) the condition of trading in a market area, or
- (c) any other matter for carrying out the purposes of this Act.

(2) Any bye-law made by a market committee shall be forwarded by it to the Board for approval. If the Board is satisfied that the proposed bye-law is not contrary to the provisions of this Act or the rules made thereunder, it shall register such bye-law within a period of three months from the date of receipt thereof and forward to the market committee a copy of the bye-law so registered together with a certificate of such registration, and such certificate shall be conclusive evidence that the bye-law has been duly registered.

(3) If it appears to the Board that an amendment of the bye-law forwarded to it by a market committee under sub-section (2) or rescission of an existing bye-law or adoption of a new bye-law is necessary in the interests of such market committee or of persons using the market, the Board may, by an order in writing, direct such market committee to amend such bye-law or to rescind the existing bye-law or to adopt a new bye-law, as the case may be, within such period as may be specified in such order.

(4) If the market committee fails to make any such amendment, rescission or adoption within the period specified in the order referred to in sub-section (3), the Board may, after giving such market committee an opportunity of being heard, register such amendment, rescission or adoption and forward to the market committee a copy of the amendment, rescission or new bye-law so registered together with a certificate of such registration which shall be conclusive evidence that the amendment, rescission or adoption has been duly registered and shall be binding upon the market committee.

Repeal and
savings.

39. (1) The West Bengal Markets Regulation Act, 1970, is hereby repealed.

(2) Any market committee constituted, any rule or notification issued, any order made, anything done or any action taken under the said Act shall be deemed to have been validly constituted, issued, made, done or taken under the corresponding provision of this Act as if this Act were in force on the day on which such market committee was constituted, such rule or notification was issued, such order was made, such thing was done or such action was taken.

West Ben.
Act VII of
1970.

¹Section 38A was inserted by s. 31 of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1978 (West Ben. Act XXVII of 1978).

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¹(3) (a) All properties and assets vested in a market committee constituted under the said Act (hereinafter called the old market committee) and all rights, liabilities and obligations acquired, accrued or incurred by such old market committee before the commencement of this Act shall stand transferred to the corresponding market committee or committees constituted under this Act, and where there are more than one corresponding market committees, such properties, assets, rights, liabilities and obligations of the old market committee shall, by an order, be equitably divided by the Director amongst the corresponding market committees and the properties, assets, rights, liabilities and obligations allotted by the Director to each of such corresponding market committees shall vest in each such corresponding market committee:

Provided that no order under this clause shall be made by the Director without giving each of the corresponding market committees an opportunity of being heard.

(b) An order of the Director made under clause (a) shall be final and shall not be liable to be questioned in any court of law.

(4) All contracts entered into by or on behalf of any market committee constituted under the said Act, before the commencement of this Act shall be deemed to have been entered into by the corresponding market committee ²[or committees] constituted under this Act.

(5) All legal proceedings or remedies instituted or enforceable by or against any market committee before the commencement of this Act may be continued or enforced, as the case may be, by or against the corresponding market committee ³[or committees] constituted under this Act.

¹Sub-section (3) was substituted for original sub-section by s. 11(a) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

²The words within the square brackets were inserted by s. 11(b) of the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 1975 (West Ben. Act XXXIV of 1975).

³The words within the square brackets were inserted by s. 11(c), *ibid*.

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SCHEDULE.

[See section 2(1)(a).]

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|---------------|----|---|
| I. Cereals | .. | (1) Paddy.
(2) Rice.
(3) Wheat.
(4) Maize.
(5) Barley.
(6) Raaj or Marua.
(7) Jowar.
(8) Bajra.
(9) Cheena.
(10) Kodo. |
| II. Pulses | .. | (1) Gram.
(2) Arhar.
(3) Masur.
(4) Urad or Kalai.
(5) Khesari.
(6) Mung.
(7) Dry Peas (Matar or Kerai).
(8) Cowpea seed (dry). |
| III. Oilseeds | .. | (1) Mustard, Rape and Toria.
(2) Linseed.
(3) Groundnut.
(4) Sesamum seed. |
| IV. Oils | .. | All vegetable oils. |
| V. Fruits | .. | (1) Mango.
(2) Banana.
(3) Lichi.
(4) Orange.
(5) Lemon.
(6) Melons.
(7) Jackfruits.
(8) Blackberry.
(9) Guava.
(10) Apple.
(11) Pineapple. |

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|-------|-----------------------------------|----------------------------|
| VI. | Vegetables | (1) Potato. |
| | | (2) Onion. |
| | | (3) Palwal. |
| | | (4) Brinjals. |
| | | (5) Gourd. |
| | | (6) Bhindi. |
| | | (7) Pumpkin. |
| | | (8) Tomato. |
| | | (9) Cauliflower. |
| | | (10) Cabbage. |
| | | (11) Green Peas. |
| | | (12) Beans. |
| | | (13) Carrot. |
| | | (14) Radish. |
| | | (15) Sweet Potato. |
| | | (16) Green Chillies. |
| VII. | Fibres | (1) Cotton (Ginned and un- |
| | | ginned). |
| | | (2) Jute. |
| | | (3) Sunnhemp. |
| VIII. | Animal Husbandry
Products. | (1) Poultry. |
| | | (2) Egg. |
| | | (3) Cattle. |
| | | (4) Sheep. |
| | | (5) Goat. |
| | | (6) Wool. |
| | | (7) Butter. |
| | | (8) Ghee. |
| | | (9) Milk. |
| | | (10) Hides and Skins. |
| | | (11) Bones. |
| | | (12) Fleece. |
| | | (13) Goat meat and Mutton. |
| | | (14) Fish. |
| IX. | Condiments, Spices
and others. | (1) Turmeric. |
| | | (2) Chillies. |
| | | (3) Garlic. |
| | | (4) Coriander. |

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- (5) Ginger.
 - (6) Cardamom and Pepper.
 - (7) Betel leaves.
 - (8) Betelnuts.
 - (9) Cashewnuts.
 - (10) Methi.
 - (11) Zeera.
- X. Grass and Fodder . .
- XI. Narcotics . . Tobacco.
- XII. Miscellaneous . .
- (1) Sugarcane.
 - (2) Gur.
 - (3) Sugar.
 - (4) Lac.
 - (5) Oil-cakes.
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