



The Himachal Pradesh Agricultural and Horticultural Produce Marketing
(Development and Regulation) Act, 2005

Act 20 of 2005

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Agricultural Produce, Buyer, Contract Farming, Export, Exporter, E-Trading, Hamal, Import, Importer, Market Charges, Market Functionary, Seller, Trader, Transportation, Value Addition

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Act No. 20 of 2005

**THE HIMACHAL PRADESH AGRICULTURAL AND HORTICULTURAL
PRODUCE MARKETING (DEVELOPMENT AND REGULATION)
ACT, 2005.**

(AS ASSENTED TO BY THE GOVERNOR ON 25TH MAY, 2005)

AN

ACT

to re-enact the law to provide for improved regulation in marketing of agricultural produce, development of efficient marketing system, promotion of agri- processing and agricultural exports, establishment and proper administration of markets for agricultural produce in the State of Himachal Pradesh and to ensure level playing field for competitive markets to operate through setting of minimum standards for facilities, procedures and systems, thereby promoting the establishment of well administered and efficient infrastructure for marketing of agricultural produce in and from the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty- sixth Year of the Republic of India, as follows: -

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THE HIMACHAL PRADESH AGRICULTURAL AND HORTICULTURAL
PRODUCE MARKETING (DEVELOPMENT AND REGULATION)
ACT, 2005.**

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SCHEDULE.

- Short title**
1. This Act may be called the Himachal Pradesh Agricultural and Horticulture Produce Marketing (Development and Regulation) Act, 2005.
- Definitions**
2. In this Act, unless there is anything repugnant in the subject or context,-----
- (a) “agricultural produce” means all produce and commodities, whether processed or unprocessed, of agriculture, horticulture, apiculture, sericulture, livestock and products of live stock, fleeces (raw wool) and skins of animals, forest produce and fisheries as are specified in the Schedule to this Act or declared by the Government by notification under section 19 of this Act, and also includes a **mixture** of two or more than two such products;
 - (b) “agriculturist” means a person who is a bonafide Himachali and owns and possesses land in Himachal Pradesh and who is engaged in production of agricultural produce by himself or by hired labour or otherwise, but does not include any market functionary;
 - (c) “Board” means the Himachal Pradesh State Agricultural Marketing Board established under section 3 of this Act;
 - (d) “business” means purchase, sale, processing, value addition, storage, transportation and connected activities of agricultural produce;
 - (e) “buyer” means a person, a firm, a company or a Cooperative Society or Government Agency, Public Undertaking/ Public Agency or Corporation, commission agent, who himself or on behalf of any other person or agent buys or agrees to buy agricultural produce in the notified market area;
 - (f) “bye-laws” means the bye-laws made by the Board for the Committee under section 84 of this Act;
 - (g) “Chairman” means Chairman of the Board;

- (h) “commission agent” means a person who on behalf of his principal trader and in consideration of a commission or percentage on the amount involved in such transaction buys agricultural produce and makes payment, keeps it in his custody and delivers it to the principal trader in due course or who receives and takes in his custody agricultural produce sent for sale within the market area or from outside the market area, sells the same in the market area and collects payment thereof from the buyer and remits the sale proceeds to his principal trader;
- (i) “Committee” means an Agricultural Produce Market Committee established under section 29;
- (j) “contract farming” means farming by a person called “Contract Farming Producer” under a written agreement with another person called “Contract Farming Sponsor” to the effect that his farm produce shall be purchased as specified in the agreement;
Explanation.- “Contract Farming Producer” means an individual agriculturist or an association of agriculturists by whatever name called registered under any law for the time being in force;
- (k) “Contract Farming Agreement” means the agreement made for a specific period for contract farming between Contract Farming Sponsor and Contract Farming Producer;
Explanation.- “contract farming sponsor” means a sole proprietor, a company registered under the Companies Act, 1956, a partnership firm registered under the Partnership Act, 1932, a Government Agency, Cooperative Societies registered under the Himachal Pradesh Cooperative Societies Act, 1968, and shall include its administrators, successors, representative and assignee;
- (l) “Cooperative Society” means a Cooperative Society of producers registered under the provisions of the Himachal Pradesh Cooperative Societies Act, 1968, which deals in the purchase, sale, processing, or storage of agricultural produce, or is otherwise engaged in the business

- of disposal of agricultural produce;
- (m) “export” means despatch of agricultural produce outside India;
 - (n) “exporter” means a person who exports agricultural produce;
 - (o) “e- trading” means trading in which billing, booking, contracting, negotiating, information exchange, record keeping and other connected activities are done electronically on computer network/ internet;
 - (p) “hamal” means a labourer, hamal or coolie engaged for dara-making, loading, unloading, filling, stitching, emptying or carrying any agricultural produce in the notified market area;
 - (q) “import” means bringing agricultural produce from outside India;
 - (r) “importers” means person who imports agricultural produce from outside India;
 - (s) “licence” means licence granted under this Act;
 - (t) “licensee” means a person or association, firm, company, public sector undertaking or society holding a licence issued under this Act;

 - (u) “market” means a market established under section 19 of this Act which includes market area, market yard/ sub yards and principal market yard;
 - (v) “market area” means area notified under section 19 of this Act;

 - (w) “market charges” includes charges on account of or in respect of commission, brokerage, weighing, measuring, hamali (loading, unloading or carrying), cleaning, drying, sieving, stitching, stacking, hiring, gunny bags, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing;
 - (x) “market functionary” means a trader, a commission agent, buyer, hamal, processor, a stockiest, and any other person as may be declared by the State Government, by notification, to be a market functionary;
 - (y) “market yard” in relation to a market area means a specified place and includes any enclosures, buildings or locality declared as such in any market area by the State Government by

- notification;
- (z) 'member' includes the Chairman, of the Board;
- (za) "marketing" means all activities involved in the flow of agricultural produce from the production points commencing from the stage of harvest till these reach the ultimate consumers, viz, grading, processing, storage, transport, channels of distribution and all other functions involved in the process;
- (zb) "notification" means notification issued under this Act and published in the Official Gazette;
- (zc) "notified agricultural produce" means any agricultural produce notified under section 19 of this Act;
- (zd) "person" shall include any company or Association or body of individuals, whether incorporated or not;
- (ze) "producer" means a person, who in his normal course of avocation, grows, manufactures, rears or produces, as the case may be, agricultural produce personally, through tenants or otherwise, but does not include a person who works as a trader or a broker or who is a partner of a firm of traders or brokers is otherwise engaged in the business of disposal or storage of agricultural produce other than that grown, manufactured, reared or produced by himself through his tenants or otherwise;

Provided that no person shall be disqualified from being a producer merely on the ground that he is a member of a Cooperative Society;

Explanation,— The term "producer" shall also include tenant'.

- (zf) "prescribed" means prescribed by rules made under this Act;
- (zg) "processing" means any one or more of a series of treatments relating to powdering, crushing, decorticating, dehusking, parboiling, polishing, ginning, pressing, curing, cleaning, or any other manual, mechanical, chemical or physical

treatments to which raw agricultural produce or its product is subjected to;

- (zh) “processor” means a person who undertakes processing of any notified agricultural produce on his own accord or on payment of a charge;
- (zi) “private market yard” means such place other than the market yard/ sub market yard in the market area where infrastructure has been developed and managed by a person for marketing of notified agricultural produce holding a licence for this purpose under this Act;
- (zj) “registration” means registration done under this Act;
- (zk) “regulation” means regulations made by the Board under section 85 of this Act;
- (zl) “retail sale” means sale of agricultural produce not exceeding such quantity as may be prescribed;
- (zm) “State Government” or “Government” means the Government of Himachal Pradesh;

- (zn) “seller” means a person who sells or agrees to sell any agricultural produce;

- (zo) “trader” means a person who in his normal course of business buys or sells any notified agricultural produce and includes a person engaged in processing of agricultural produce but does not include an agriculturist;
- (zp) “transportation” means taking agricultural produce by push cart, bullock cart, truck or other vehicle in course of business for marketing from one place to another;
- (zq) “transporter” means a person who transport agricultural produce; and
- (zr) “value addition” means processing, grading, packing or other activities due to which value is added to agricultural produce.

CHAPTER-II ESTABLISHMENT, CONSTITUTION, POWERS AND FUNCTIONS OF THE BOARD.

Establishment of the Board. 3.

- (1) The State Government may, by notification, for coordinating the activities of markets and for development, promotion and regulation of agricultural marketing, establish the Himachal Pradesh State

Agricultural Marketing Board.

- (2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to lease, sale or otherwise transfer any such property and to contract and to do all other things necessary for the purpose for which it is established.

Constitution of the Board.

4.

The Board shall consist of a Chairman, who shall be appointed by the State Government and twenty members including Vice-Chairman of whom ten shall be ex-officio members and ten non-official members to be nominated by the State Government in the following manner, namely:-

(a) Ex-officio members,-

- (i) The Secretary (Agriculture) to the Government of Himachal Pradesh. ---Vice –Chairman;
- (ii) The Secretary (Horticulture) to the Government of Himachal Pradesh;
- (iii) The Secretary (Finance) to the Government of Himachal Pradesh;
- (iv) The Secretary (Forest) to the Government of Himachal Pradesh;
- (v) The Principal Chief Conservator of Forests, Himachal Pradesh;
- (vi) Director of Agriculture, Himachal Pradesh;
- (vii) Director of Horticulture, Himachal Pradesh;
- (viii) Registrar Cooperative Societies, Himachal Pradesh;
- (ix) Chief General Manager of National Bank for Agriculture and Rural Development, Shimla; and
- (x) Managing Director of the Himachal Pradesh State Agricultural Marketing Board

(b) Non – official members,-

- (i) two shall be **Chairmen** of the Committees;
- (ii) four shall be other progressive agriculturists/farmers.
- (iii) two shall be from amongst such traders registered under section 40 of this Act; and
- (iv) two shall be from amongst experts having experience in agricultural marketing.

Term of office of the Chairman and the non-official members of the Board.

5. (1) The Chairman and the non-official members of the Board shall hold office during the pleasure of the State Government. In the event of supersession of the committee from where the members have been nominated in the Board, the concerned member shall cease to be a member of the Board.
- (2) The tenure of the Vice-Chairman and ex-officio members of the Board shall come to an end as soon as he ceases to hold the office by virtue of which he was nominated.
- (3) Whenever there is a temporary vacancy in the office of the Chairman, the Vice- Chairman shall act as the Chairman during the vacancy.

Disqualification of member of the Board.

6. No person shall be eligible to become a member of the Board who -
- (a) does not ordinarily reside within Himachal Pradesh;
 - (b) is below 25 years of age;
 - (c) has been removed under section 8 or section 33 of this Act;
 - (d) is of unsound mind; or
 - (e) has been declared insolvent or sentenced by a criminal court, whether with in or outside Himachal Pradesh for an offence involving moral turpitude:

Provided that the disqualification under clause (e) on the ground of a sentence by a criminal court shall not apply after the expiry of four years from the date on which the sentence of such person has expired.

Resignation of members of Board.

7. The Chairman of the Board may resign by tendering his resignation to the State Government, and a member other than the Chairman of the Board may resign from membership by tendering his resignation to the State Government through the Chairman of the Board, and the seat of such Chairman or the member, as the case may be, shall become vacant on the date of acceptance of his resignation.

Removal of members of Board.

8. The State Government may remove any non-official member

of the Board who has become subject to any of the disqualifications specified in section 6 or who is, in its opinion, unfit to act, as a member or remiss in the discharge of his duties or whose continuance as a member of the Board is considered to be prejudicial to its interest and may appoint another member of the Board in his place in the manner as provided under section 4 from the category to which the removed member belongs.

Provided that before removing a member, the reasons for the proposed action shall be conveyed to him and his reply invited within a specified period and duly considered:

Provided further that any vacancy of the non official member shall be filled in as early as practicable.

Appointment of officers and servants of the Board. 9.

- (1) The Board shall have a Managing Director who shall be appointed by the State Government and he shall also be the Chief Executive Officer of the Board.
- (2) The Managing Director appointed under sub section (I) shall also function as the Member Secretary of the Board.
- (3) For the efficient discharge of duties and functions of the Board and the Committees, the Board may, with the prior approval of the State Government, appoint such other officers including Civil Engineer and employees as may be necessary.
- (4) The Superintendence and control over all the officers and employees of the Board and Committees shall vest in the Managing Director of the Board.

The Chairman and non-official members of the Board shall be paid from the Marketing Development Fund such sitting fees and allowances as may be prescribed.

Allowances to the Chairman and non-official members of the Board. 10.

- (1) The Board shall, subject to the provisions of this Act perform the following functions and shall have power to do such thing as may be necessary or expedient for carrying out these functions:-

Powers and functions of the Board. 11.

- (i) exercise superintendence and control over all the Committees established and constituted

under this Act.

- (ii) coordinate the working of the Committees and other affairs thereof including programmes undertaken by such Committees for the development of markets and market areas;
 - (iii) undertake the State level planning of the development of agricultural produce markets;
 - (iv) administer the Marketing Development Fund;
 - (v) to give directions to the Committees in general or any Committee in particular with a view to ensure improvement thereof;
 - (vi) any other functions specifically entrusted to it by this Act; and
 - (vii) such other functions of like nature as may be entrusted to the Board by the State Government.
- (2) Without prejudice to the generality of the foregoing provision, such functions of the Board shall include -
- (i) to approve proposals for selection of new sites by the Committees for establishment of principal or sub-market yard;
 - (ii) to approve proposal for constructing infrastructure facilities in the market area such as grading, pack houses, storages, processing, other post harvest management facilities etc;
 - (iii) to supervise and guide the Committee in the preparation of plans and estimates of construction programme undertaken by the Committee;
 - (iv) to execute all works chargeable to the Board's fund;
 - (v) to maintain accounts and get the same audited in such form and in such manner as may be prescribed;
 - (vi) to publish annually at the close of the year its progress report, balance sheet and statement of assets and liabilities and send copies thereof to each member of the Board and the State Government;
 - (vii) to undertake marketing extension activities in the Board for the transfer of marketing technology and extension services. It may

- also make necessary arrangements for propaganda and publicity on matters related to regulated marketing of an agricultural produce and development of marketing;
- (viii) to provide facilities for the training of officers and staff of Committees and the Board after assessing the demand for trained personnel in agricultural marketing at all levels;
- (ix) to prepare and adopt budget for the ensuing year;
- (x) arrange or organize seminars/ workshops/ exhibitions, etc; on subjects related to agricultural marketing;
- (xi) to do such other things as may be of general interest to Committees or considered necessary for the efficient functioning of the Board;
- (xii) to organise and promote grading and standardization of notified agricultural produce and e-trading; and
- (xiii) to set up an Agricultural Produce Marketing Standards Bureau to perform such functions and duties as may be prescribed for the purpose of promotion of grading, standardization and quality certification of agricultural produce in the State;

Powers and functions of the Managing Director of the Board.

12

The Managing Director of the Board shall, -

- (i) exercise supervision and control over officers and staff of the Board in matters of executive administration, concerning accounts and records and disposal of all questions relating to the service of the employees in accordance with the procedure as may be prescribed;
- (ii) incur expenditure from the Marketing Development Fund on the sanctioned items of work;
- (iii) have the same powers as are conferred under the financial rules of the State Government on the Head of the Department and exercise such other powers and discharge such other duties as may be prescribed;

- (iv) have the power to transfer employees of one Committee to the Board and vice-versa on administrative grounds;
- (v) in case of emergency, direct the execution or stoppage of any work and doing of any act which requires the sanction of the Board;
- (vi) prepare annual budget of the Board;
- (vii) arrange for internal audit of the Board;
- (viii) arrange for the meeting of the Board and maintain records of the proceedings of the meetings of the Board in accordance with the procedure as may be prescribed;
- (ix) take such steps as deemed necessary for execution of the decision of the Board;
- (x) inspect the construction work undertaken by the Committees either from their own funds or loans and or grants provided by the Board or any other agencies and take corrective measures;
- (xi) report such acts either of the Committees or of the Board which are contrary to the provisions laid down under this Act or rules and bye-laws made thereunder to the State Government; and
- (xii) take such steps as deemed necessary for effective discharge of the functions of the Board.

Meeting of the Board.

13. (1) The Board shall meet for the transaction of its business at least once in every three months at such place and at such time as the Chairman may determine.
- (2) All proceedings the Board shall be authenticated by the Chairman and the Managing Director of the Board.
- (3) The Board shall conduct the business in such manner as may be prescribed by regulation.

Quorum.

14. One third of the total members shall constitute a quorum at a meeting of the Board. All questions that may come up before a meeting of the Board shall be determined by a majority of votes of the members present and voting; and in case of equality of votes, the Chairman shall have a casting vote:
- Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at the next meeting called for transacting the same business.

- Act of the Board not to be invalidated.** 15. No act or proceedings of the Board shall be invalid by reason only on of the existence of any vacancy among its members or any defect in the constitution thereof.
- Appointment of Sub-Committee.** 16. The Board may appoint Sub-Committees consisting of three or more members which shall include Chairman or Vice-Chairman and the Managing Director of the Board, for the performance of any of its duties or functions or for giving advice on any matter incidental thereto and may delegate to such Sub-Committee any of its duties or functions as it may deem necessary.
- Superintendence and control of the Board.** 17. The State Government shall exercise superintendence and control over the Board and its officers and may call for such information as it may deem necessary and, in the event of its being satisfied that the Board is not functioning properly, or is abusing its powers or is guilty of corruption or mis-management, it may suspend the Board and, till such time as a new Board is constituted, make such arrangement for the exercise of the functions of the Board, as it may think fit:
 Provided that the Board shall be constituted within six months from the date of its suspension.
- Delegation of powers.** 18. (1) The State Government may delegate to the Board any of powers conferred on it by or under this Act except power to make rules.
 (2) Subject to the provisions of this Act, the Board may by general or special order delegate to the Managing Director of the Board or Sub-Committee appointed by it or to any officer of the Board any of powers and duties conferred on it by or under this Act as it may deem fit.

CHAPTER-III
REGULATION OF TRADING AND CONTRACT
FARMING

- Notification of intention of developing and regulating marketing of notified agricultural produce.** 19. (1) The State Government on its own or on the representation made by the growers or on the recommendation of the Board may, by notification, declare its intention of exercising control over the purchase, storage, processing and sale of such agricultural produce, in such area as may be specified in the notification, by inviting objections or

suggestions from the general public within a period of thirty days from the date of publication of notification which shall be considered by it.

- (2) After the expiry of the period specified in the notification issued under sub-section (1), and after considering objections and suggestions, if any, received before the expiry of the specified period, and after making such inquiry, as may be necessary, the State Government may by notification, declare the area specified in the notification, or any portion thereof to be a market area for the purpose of this Act and that marketing of all or any of the kinds of agricultural produce specified in the notification shall be developed and regulated in such market area in accordance with the provisions of this Act.

Notification of intention to alter limits of or to split up market area to de-establish a market.

20. (1) The State Government may, by notification, declare its intention --
 - (a) to alter the limits of a market area by including, within it any other area in the vicinity thereof or by excluding therefrom any area comprised therein; or
 - (b) to amalgamate two or more market areas and constitute one Committee thereof; or
 - (c) to split up a market area and to constitute two or more Committees thereof; or
 - (d) to de-establish a market.
- (2) Every notification issued under sub-section (1) shall define the limits of the area to be included in or excluded from a market area, or of the market area to be amalgamated into one, or of the area of each of the markets to be de-established, as the case may, and shall also specify the period which shall not be less than six weeks from the date of publication of the notification within which objections or suggestions, if any, may be received by the State Government.
- (3) Any person likely to be affected by the notification issued under sub-section (1) may, submit his objections or suggestions in writing to the State Government within the period specified in the notification.
- (4) Objections and suggestions received under sub-

section (3) within the stipulated period shall be considered and decided by the State Government and thereafter the State Government may, by notification,-

- (a) include the area or any part thereof in the market area or exclude it therefrom;
- (b) constitute a new Committee for the market area amalgamated; or
- (c) split up an existing market area and constitute two or more Committees for such areas, as the case may be; or
- (d) to de-establish a market.

- (5) Where a notification under Sub-Section (4) has been issued excluding any area from the market area and including such area in other market area, the State Government shall, after consulting the Board and the Committee concerned frame a scheme to determine what portion of the assets and other properties vested in one Committee shall vest in the other Committee and in what manner the liabilities of the Committees shall be apportioned between the two Committees and such scheme shall come into force on the date of publication of the scheme in the Official Gazette.

Market yards, sub-market yards, farmer's, consumer and private market yards.

21

- (1) In every market area, there may be -
- (i) market yard managed by the Committee;
 - (ii) one or more than one sub-market yards managed by the Committee; and
 - (iii) private market yards, private markets farmers and consumer markets managed by a person other than a Committee.
- (2) The Board may with the prior approval of State Government, by notification, declare any specified place including any structure, enclosure, open place, or locality in the market area to be a market yard or sub-market yards for the notified market area.

Establishment of private yards, and direct purchase of agricultural produce from agriculturist.

22.

Any person who desires to establish private yard for the purchase of agricultural produce direct from agriculturist, or for providing infrastructure facilities, in any market area for

- (a) the process of the notified agricultural produce;

- (b) the trade of notified agricultural produce of particular specification;
- (c) the export of notified agricultural produce; and
- (d) the grading, packing and transaction in other way by value addition of notified agricultural produce, shall make an application for obtaining licence in accordance with the provisions of section 25 of this Act.

Establishment of consumer's or farmers markets and creation of post harvest management facilities by the farmers/ agriculturists.

23.

- (1) Consumer's or farmer's market may be established by developing infrastructure as may be prescribed, by any person in any market area, and producer may, himself sell his agricultural produce direct to the consumer in such market area, in the manner as may be prescribed.
- (2) Market service charge shall be collected on sale of agricultural produce by the seller and shall be remitted to the proprietor of the consumer market.
- (3) Save as otherwise provided in this Act, no market fee shall be leviable on the transactions undertaken in the consumer's or farmer's market.
- (4) Notwithstanding anything contained in this Act, any farmer and agriculturist may, for his bonafide use, create post harvest management infrastructure facilities at the farm level such as grading standardization pack houses, storages (including cold storages), primary processing of agricultural produce and other post harvest management facilities for which the central or State Government may provide different scheme shall be implemented alongwith the scheme under Horticultural Technology Mission being executed by the Department of Horticulture through Directorate of Marketing and Inspection, Govt. of India..

Contract farming.

24.

No person shall undertake contract farming unless registered under section 40 of this Act, and shall have to enter into an agreement with contract farming producer on such form and in such manner as may be prescribed.

Grant and renewal of licence of private yard, consumer and farmer market.

25.

- (1) Any person who under section 22 desires to purchase notified agricultural produce direct from the agriculturists or the producer or wishes to establish a private market yard or under Sub-Section (1) of

section 23 desires to establish consumer or farmer market in one or more than one market area, shall apply to the Managing Director of the Board for grant or renewal of licence, as the case may be, for such period, in such form, on such conditions and on payment of such fees as may be prescribed.

- (2) Application received under sub section (1) for grant or renewal of licence may be accepted or rejected for the reasons to be recorded in writing; provided that a licence shall not be granted or renewed if, -
- (i) the Committee dues are outstanding against the applicant;
 - (ii) the applicant is a minor or not bonafied;
 - (iii) the applicant has been declared defaulter under the Act and the rules and bye-laws made there under;
 - (iv) the applicant having been declared guilty in any criminal case and convicted by imprisonment;
 - (v) the State Government is satisfied that granting or renewal of licence to the applicant is not going to promote the interest of the producers; and
 - (vi) there is any other reasons which the Managing Director of the Board may consider to be against the interest of producer or consumer.

Power to cancel or suspend licence.

26.

Subject to the provisions of this Act, any licence issued or renewed under section 25, may be suspended or cancelled by the Managing Director of the Board, after affording the holder of such licence the opportunity of being heard, on any of the following grounds:-

- (a) if the licence has been obtained through willful mis-representation or fraud; or
- (b) if the holder of the licence or any of his servant or any person acting on his behalf, commits a breach of any of the terms or conditions of licence; or
- (c) if the holder of the licence in combination with other licence holder commits any act or abstains from carrying on his normal business in the market area with the intention of wilfully obstructing, suspending or stopping

the marketing of notified agricultural produce in the market yard/ sub- market yard and in consequence where of the marketing of any notified agricultural produce has been obstructed, suspended or stopped;

- (d) if the holder of the licence has become an insolvent; or
- (e) if the holder of licence incurs any disqualification as may be prescribed; or
- (f) if the holder of the licence is convicted of any offence under this Act, then with in one year of the conviction if the conviction is for the first time, and within three years for subsequent conviction.

Regulation of marketing of notified agricultural Produce.

27. (1) No person shall, except in accordance with the provisions of this Act and the rules and bye-laws made there under,-

- (i) use any place in the market area for the marketing of notified agricultural produce; and
- (ii) operate in the market area as a market functionary.

(2) Nothing in sub-section (1) shall apply to the following sale or purchase of such agricultural produce.

- (i) where the sale is made by the producer himself to any person for his domestic consumption in quantity up to prescribed limit;
- (ii) purchase or sale of which is made by a petty trader as may be prescribed; and
- (iii) purchase of which is made by an authorized fair price shop dealer from the Food Corporation of India, the State Commodities Trading Corporation” or any other agency or institution authorized by the State Government for distribution of essential commodities through the Public Distribution System.

Sale of notified agricultural produce in the markets.

28. (1) All notified agricultural produce shall ordinarily be sold in the market yards, sub-market yard or in the private yards of the licence holder, subject to the provision of sub-section (2):

Provided that notified agricultural produce may be sold at other places to a licence holder especially permitted in this behalf under section 22 and 23 of this Act:

Provided further that it may not be necessary to bring agricultural produce covered under contract farming to the market yard, sub market yard or private yard and such agricultural produce may be directly sold to contract farming sponsor from farmers fields.

- (2) The price of the notified agricultural produce, brought for sale into the market yard, shall be settled by open auction or by any other transparent system as may be prescribed and no deduction shall be made from the agreed price on any account whatsoever from the seller :

Provided that the price of notified agricultural produce in the private yards shall be settled in the manner as may be prescribed.

- (3) Weighment or measurement or counting of all the notified agricultural produce so purchased shall be done by such person and in such manner as may be provided in the bye-laws.

CHAPTER-IV ESTABLISHMENT, CONSTITUTION, POWERS AND FUNCTIONS OF THE COMMITTEE

**Establishment of the
Committee.** 29.

- (1) The State Government shall, by notification, establish a Agricultural Produce Market Committee for every notified market area and shall specify its headquarter.
- (2) Every Committee established under sub-section (1) shall be a body corporate, having perpetual succession and a common seal, may sue and be sued in its corporate name and subject to the provisions of section 78, be competent to acquire and hold property both moveable and immovable and to lease, sell or otherwise transfer any such property which may have become vested in, or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established:

Provided that no Committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specially convened for the purpose by a majority of not less than three-fourth of the members of the Committee and with the prior approval of the Board.

- Constitution of the Committee.** 30. (1) A Committee shall consist of sixteen members of whom six shall be ex-officio members and ten non-official members.
- (2) Ex- officio members:-
- (i) Deputy Commissioner - Vice Chairman;
 - (ii) Dy. Director of Agriculture;
 - (iii) Dy. Director of Horticulture;
 - (iv) Dy. Director of Animal Husbandry;
 - (v) In charge Krishi Vigyan Kendra; and
 - (vi) Secretary of the Committee.
- (3) The non-official members shall be appointed by the State Government out of a panel of names given by the Deputy Commissioner concerned equal to twice the number of vacancies to be filled in the manner provided here under:-
- (i) nine non-official members from the producers of the notified market area; and
 - (ii) one non-official members from the traders licensed under section 40 from the notified market area.
- Term of office of the Member of the Committee.** 31. (1) Subject to the provisions of section 33 every non-official member of the Committee shall hold office during the pleasure of the State Government.
- (2) The term of an ex-officio member of the Committee shall come to an end as soon as he ceases to hold the office by virtue of which he was nominated.
- Disqualification of member of the Committee.** 32. No person shall be eligible to become a member of the Committee if he incurs any of the disqualifications specified under section 6 of this Act.
- Removal of members of the Committee.** 33. The State Government may, at any time during the period of his office, remove, by notification, any member, if such

member has, in its opinion, been guilty of misconduct or neglect of duty or has lost the qualifications on the strength of which he was nominated:

Provided that before the Board notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing:

Provided further that any vacancy of the non-official members arising as a result of **death**, resignation, retirement, transfer or removal shall be filled in as early as practicable.

**Meeting of the
Committee.**

34. (1) Committee shall meet for the transaction of its business at least once in three months provided that the committee may in special circumstances meet any time and at any place in the market area.
- (2) The Chairman shall preside over meetings of the Committee and if he is absent, the Vice-Chairman shall preside over meeting of the Committee and if at any meeting both the Chairman and Vice- Chairman are absent, such one of the members present in the meeting as may be chosen by the members present may act as Chairman.
- (3) Subject to the provisions of this Act, the Committee shall conduct its business as may be prescribed.

**Election of
Chairman of the
Committee.**

35. Every Committee shall elect from amongst its members a Chairman.
- Provided that only producer members of the Committee shall be eligible for election of the Chairman.

**Resignation by the
Chairman of the
Committee.**

36. (1) Chairman or any non-official member of the Committee may resign his office at any time in writing addressed to the Chairman of the Board and the seat of such Chairman or non-official member shall become vacant on the date of acceptance of his resignation.
- (2) During the vacancy caused by death, resignation, removal or otherwise in the office of the Chairman, then notwithstanding any thing contained in this Act, such producer member of the Committee as the Chairman of the Board may appoint shall exercise the powers and perform the functions of the Chairman till

the Chairman is duly elected.

No confidence motion against Chairman of the Committee.

37. (1) A motion of no confidence may be moved against the Chairman at a meeting specially convened for the purpose under sub-section (2) and if the motion is passed by a majority of not less than two third of the members of the Committee, he shall cease to be the Chairman of the Committee.
- (2) For the purpose of sub-section (1) a meeting of the Committee shall be held within thirty days of the date of receipt of the notice of motion of no confidence.
- (3) The Chairman shall not preside over the meeting, but such meeting shall be presided over by such officer of the State Government as may be authorized by it, however, the Chairman shall have the right to speak and otherwise to take part in the proceedings of the meeting.
- (4) If the motion of no confidence **fails** or if the meeting could not be held for want of quorum, no notice of any subsequent motion of no confidence in the same Chairman shall be made until the expiry of period six months from the date of such scheduled meeting.

Act of Committee not to be invalidated.

38. No act of Committee or of any Sub-Committee thereof or of any person acting as a member, Chairman, Vice Chairman, presiding authority or Secretary of the Committee shall be deemed to be invalid by reason only of some defect in the constitution or appointment of such Committee, Sub-Committee, Members, Chairman, Vice- Chairman, presiding authority or Secretary of the Committee or on the ground that they or any of them were disqualified for such office, or that formal notice of the intention to hold meeting of the Committee or of the Sub-Committee was not given duly or by reason of such act having been done during the period of any vacancy in the office of the Chairman, Vice Chairman, or Secretary of the Committee or member of such Committee or Sub-Committee or for any other infirmity not affecting the merits of the case.

Powers and functions of the Committee.

39. (1) Subject to the provisions of this Act, the Committee may,-

- (a) enforce the provisions of this Act, and the rules and bye-laws made there under in the notified market area;
 - (b) establish a market in the market area and provide such facilities for persons visiting in connection with the purchase, sale, storage, weighment and processing of agricultural produce concerned as the Board may, from time to time direct;
 - (c) do such other acts as may be required in relation to the superintendence, direction and control of market or for regulating marketing of agricultural produce in any place in the market area, and for the purposes connected with the matters aforesaid, and for that purpose may exercise such powers and discharge such functions as may be provided by or under this Act; and
 - (d) do all such other acts which may bring complete transparency in pricing system and transactions taking place in market area.
- (2) Without prejudice to the generality of the foregoing provisions, the Committee may,-
- (i) maintain and manage the market yards and sub-market yards within the market area;
 - (ii) provide necessary facilities for the marketing and facilitate the transportation of agricultural produce within the market yards and outside the yards and within the sub-market yards and outside the sub-market yards in the market area;
 - (iii) regulate, conduct or supervise the auction of notified agricultural produce in accordance with the provision and procedure laid down under the rules made under this Act or bye-laws of the Committee;
 - (iv) regulate the making, carrying out and enforcement or cancellation of agreements of sales, weighment, delivery, payment and all other matters relating to the market of notified agricultural produce in the manner prescribed;
 - (v) provide for the settlement of all disputes between the seller and the buyer arising out on any kind of transaction connected with the marketing of notified agricultural produce and all matters

ancillary thereto;

- (vi) take all possible steps to prevent adulteration of notified agricultural produce;
- (vii) make registration for weighmen and hamal for weighing and transporting of goods in respect of transactions held in the market yard or sub-yards;
- (viii) set up and promote public – private partnership in management of the markets;
- (ix) promote public – private partnership for carrying out extension activities in its area viz, collection, maintenance and dissemination of information in respect of production, sale, storage, processing, prices and movement of notified agricultural produce;
- (x) levy, take, recover and receive rates, charges, fees and other sums of money to which the Committee is entitled;
- (xi) regulate the entry of persons and vehicles, traffic into the market yard and sub-market yard visiting the market;
- (xii) compound offences committed under this Act (except section 27) or rules and bye-laws made thereunder;
- (xiii) acquire land and dispose off any moveable or immovable property for the purpose of efficiently carrying out its duties;
- (xiv) institute or defend any suit, prosecution, action, proceeding, application or arbitration and compromise such suit, action, proceeding, application or arbitration;
- (xv) keep a set of standard weights and measures in each principal market yard and sub – market yard against which weighment and measurement may be checked;
- (xvi) inspect and verify scales, weights and measures in use in a market area and also the books of accounts and other documents maintained by the market functionaries in such form and in such manner as may be prescribed;
- (xvii) arrange to obtain fitness (health) certificate from a veterinary doctor in respect of animals, cattle, birds etc. which are bought or sold in the market yard or market area;
- (xviii) carry out publicity about the benefits of regulation, the system of transaction, facilities provided in the

market yard etc; through various means such as poster, pamphlets, hoardings, cinema slides, film shows, group meetings, electronic media etc; or through any other means considered more effective or necessary;

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

(xx) recover the charges in respect of weighmen and hamal and distribute the same to the weighmen and hamal if not paid by the purchaser or seller, as the case may be;

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

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

(xxiii) promote and undertake agricultural processing including activity for value addition in agricultural produce.

(3) With the prior sanction of the Board, the Committee may undertake the following functions:-

(i) construction of roads, godowns, ropeways and other infrastructure in the market area to facilitate marketing of agricultural produce and for the purpose give funds to the Board;

(ii) to provide on rent storage facilities for

stocking of agricultural produce to agriculturists;

- (iii) to promote and encourage e-trading, Committee may establish regulatory system, create infrastructure and undertake other activities and steps needed thereto;
- (iv) to maintain and circulate from time to time the data of arrivals and rates of agricultural produces standard-wise brought into the market area for sale as may be prescribed.

**Registration of
Market
functionaries.**

40. (1) Every person who, in respect of notified agricultural produce, desires to operate in the market area as trader, commission agent, weigh men, hamal, surveyor, ware housemen, contract farming buyer, owner or occupier of processing factory or any other market functionary, shall apply to the Secretary of the Committee for registration or renewal of registration in such manner and within such period as may be prescribed. The Secretary of the Committee shall be the authority to grant registration certificate with the prior approval of the Committee:

Provided that any person may buy agricultural produce in the Market yard/ sub-market yard on day to day basis even without getting registered:

Provided further that any person who desires to trade or transact or deal in any notified agricultural produce in more than one market area, shall get registered, for respective function from the Secretary of the Board.

- (2) No broker, trader, weighmen, surveyor, godown keeper or other functionaries shall, unless duly registered, carry on his occupation in a notified market area in respect of the notified agricultural produce under this Act.
- (3) Every application for such registration shall be accompanied with such fee as may be prescribed.
- (4) The Committee may register or renew the registration or refuse registration or renewal of the registration or cancel the registration on any of the following grounds:-

- (i) if the applicant is a minor;

(ii) if the applicant has been declared defaulter; or

(iii) if the applicant has been found guilty under this Act, the rules and byelaws made thereunder.

Appointment of Secretary of the Committee.

41.

(1) Every Committee shall have a Secretary who shall be appointed by the State Government in accordance with the recruitment and promotion rules for the post of Secretary of the Committee.

(2) The Secretary of the committee shall be the ex-officio Secretary of the Committee and shall be custodian of all the records and properties of the Committee.

Appointment of Sub-Committee and delegation of powers.

42

The Committee may appoint a Sub-Committee for the conduct of any work or to report on any matter and may delegate to such sub-committee such of its powers or duties as it think fit.

Powers and duties of the Secretary of Committee.

43.

The Secretary of the Committee shall exercise and perform the following powers and duties in addition to such other powers and duties as may be specified in this Act, or the rules or bye-laws made thereunder, namely:-

(i) to convene the meetings of the Committee and the Sub-Committees, if any, and maintain minutes of the meetings thereof;

(ii) to attend the meetings of the Committee and Sub-Committee and take part in the discussion;

(iii) to take steps to give effect to the resolution of the Committee and of the Sub-Committee and report all actions taken in pursuance of such resolution to the Committee in the next meeting;

(iv) to prepare the budget proposal of the Committee;

(v) to furnish to the Committee such returns, statements, estimates, statistics and reports as the Committee may from time to time, require including following informations :-

(a) the fines and penalties imposed on and any disciplinary action taken against the

- members or the staff and the market functionaries and others;
- (b) overtrading by traders;
 - (c) regarding contravention of the Act, the rules, the bye laws of the standing orders, if any, by any person;
 - (d) regarding the suspension or cancellation of licence by the Managing Director of the Board;
 - (e) regarding the administration of the Committee and the regulation of the marketing;
- (vi) produce before the Committee books, registers and other document, as may be necessary for the transaction of the business of the Committee or the Sub-Committee, and also whenever called upon by the Committee to do so;
 - (vii) exercise supervision and control over the acts of all officers and servants of the Committee;
 - (viii) collect fees and other money leviable by or due to the Committee;
 - (ix) be responsible for all money credited to or received on behalf of the Committee;
 - (x) make disbursements of all money lawfully payable by the Committee;
 - (xi) operate, maintain and transact the Committee fund;
 - (xii) report to the Managing Director of the Board, as soon as possible, in respect of fraud, embezzlement, theft or loss of Committee fund or property; and
 - (xiii) prefer complaints in respect of prosecutions to be launched on behalf of the Committee and conduct proceedings, civil or criminal on behalf of the Committee.

CHAPTER-V
FINANCE, ACCOUNTS AND AUDIT OF THE
BOARD AND THE COMMITTEE.

Levy of Market fee. 44.

Every Committee shall levy, charge and collect market fee in the manner as may be prescribed on ad-valorem basis at the rate not exceeding two rupees for every one hundred rupees as may be fixed by the State Government,-

- (i) on the sale or purchase of notified agricultural produce, whether brought from within the State or from out side the State into the market area; and
- (ii) on the notified agricultural produce whether brought from within the State or from out side the State into the market area for processing.

Single point levy.

45.

- (1) Market fee specified in section 44 shall not be levied for the second time in any market area with in the State provided that market fee has already been paid on that agricultural produce in any market area of the State and the information in this context has been furnished, by the concerned person that the payment of market fee has already been paid in other market of the State.
- (2) On the agricultural produce brought in the market area for commercial transaction or for processing, the market fee shall be deposited by the buyer or processor, as the case may be, in the office of the Committee, within fourteen days but before sale or resale or processing or export outside the market area, such agricultural produce.
- (3) In case any notified agricultural produce is found to have been processed, sold, or resold or dispatched outside the market area without payment of market fee payable on such produce, the market fees shall be levied and recovered on five time the market value of the processed produce or value of the agricultural produce, as the case may be.

**Marketing
Development Fund.**

46.

- (1) All money received by or on behalf of the Board shall be credited into a fund to be called the Marketing Development Fund.
- (2) All payments made by the Board shall be defrayed out of the said fund.
- (3) The Board may for carrying out the provisions of this Act, borrow money from the State Government or may borrow with the previous approval of the State Government,-
 - (i) from any other agency; or
 - (ii) issue debentures on the authority of any property vested in it or on the security of a part

of its future income accruing to it under this Act, or the rules made thereunder.

(4) The Marketing Development Fund shall be utilized by the Board either its own or through public-private partnership for the discharge of functions entrusted to the Board under this Act. Without prejudice to generality of this provision, the marketing development fund may be utilized for the following purposes:-

- (i) Payment of administrative expenditure of the Board;
- (ii) travelling and other allowances to the employees of the Board, Chairman and its members.
- (iii) Payment of salary, leave allowance, gratuity, compassionate allowance, compensation for injuries or death resulting from accident while on duty, medical aid, pension or provident fund to the persons employed by the Board and leave and pension contribution to Government servants on secondment;
- (iv) meeting any legal expenses incurred by the Board;
- (v) giving aid to financially weak Committees in the shape of loans and grants on the term and conditions as prescribed;
- (vi) propaganda and publicity on matters relating to marketing of agricultural produce;
- (vii) training of the officers and staff of the Committees and Board and also to agriculturists;
- (viii) meeting expenditure in marketing extension activities and e- trading;
- (ix) organizing and arranging workshops, seminars, exhibitions, etc; on development of marketing;
- (x) maintenance of the office of the Board and construction and repair of its office buildings, rest house, and staff quarters;
- (xi) general improvement of the regulation of marketing in the State;
- (xii) loans and advances to the employees;
- (xiii) expenses incurred in auditing the accounts

- of the Board;
- (xiv) providing technical and administrative assistance to the committees, including execution of works;
- (xv) market survey and research, grading and standardization, quality certification of agricultural produce and other allied subjects;
- (xvi) grading and standardization of agricultural produce.
- (xvii) collection and dissemination of market rates and news;
- (xviii) better marketing of agricultural produce; and
- (xix) with the previous sanction of the State Government, any other purpose which is calculated to promote the general interest of the Board, Committees or national or public interest.

Annual Budget of the Board.

47.

- (1) An estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared by the Board and submitted for sanction to the State Government not later than first week of February each year. On the sanction of the budget by the State Government, the Board shall have power to operate upon it.
- (2) The State Government shall sanction and return the budget within two months from the date of the receipt thereof. If it is not received within two months from the date of its submission, it shall be deemed to have been sanctioned.

Accounts, Audit and Annual Report of the Board.

48.

- (1) The Board shall prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a true and full account of its activities during the previous year, and shall forward a copy thereof to the State Government.
- (2) The accounts of the Board shall be audited annually by the Examiner of the Local Audit Department or by such other person as the State Government may direct.
- (3) As soon as the accounts of the Board are audited the Board shall send a copy of the audit, report to the

State Government.

- (4) Soon after the submission of the audit report under sub-section (3), and the annual report under sub-section (1), by the Board, the State Government shall cause the said reports to be laid before the State Legislative Assembly:

Provided that when the reports are to be laid in the budget session, these shall be laid on the table of the House on the first sitting of the said session:

Provided further that the period intervening the close of the financial year to which the reports pertain and the laying of reports, shall not exceed nine months.

Committee fund.

49. (1) Save as provided in sub-section (2) all moneys received by a Committee shall be paid into a fund to be called the "committee fund" and all expenditure incurred by the Committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the Committee after such expenditure has been met, shall be invested in such manner as may be prescribed.
- (2) Any money received by the Committee by way of arbitration fee or as security for costs in arbitration proceedings relating to disputes or any money received by the Committee by way of security deposit, contribution to provident fund or for payment in respect of any notified agricultural produce, or other charges payable by the Committee or such other money received by the Committee as may be provided in the rules or bye-laws, shall not form part of Committee Fund, and shall be kept in such manner as may be prescribed.
- (3) Every Committee, out of its fund, shall pay to the Board, 25 percent of the total market fee collected under section 44 during the year, to meet the expenses of establishment of the Board and expenses incurred in execution of the functions assigned to the Board under this Act.
- (4) All money and receipts specified in this section and forming part of the fund of the Committee shall be deposited in any Nationalized Bank or any other Bank having National Computerized Network or in the Himachal Pradesh State Co-Operative Bank.

(5) The Secretary of the Committee shall be the Head of office and shall exercise such financial powers as have been conferred under the Financial Rules of the State Government on the Head of office.

Preparation and sanction of budget of Committee.

50.

- (1) Every Committee shall prepare and pass the budget of its income and expenditure for the ensuing year in such manner and in such form and within such period as may be prescribed and shall submit it to the Managing Director of the Board and the Managing Director shall place the same before the Board for approval. The Board shall approve the budget with or without modification within two months from the date of receipt thereof. If the budget is not returned by the Managing Director within two months, it shall be deemed to have been approved.
- (2) A Committee at any time during the year for which any budget has been sanctioned, cause a revised or supplementary budget to be passed and sanction in the same manner as if it were an original budget.
- (3) No expenditure shall be incurred by a Committee on any item if there is no provision in the sanctioned budget thereof unless it can be met by re-appropriation from saving under any other head. The sanction for re-appropriation may be obtained from the Board provided that in case of re-appropriation from minor heads under one major head, sanction for re-appropriation shall not be required.

Purpose for which the Committee fund may be expended.

51.

Subject to the provisions of section 49, the Committee in order to discharge functions and duties entrusted to it under this Act, may use the Committee fund. Without prejudice to generality of this provision the Committee fund may be used for the following purposes, namely:-

- (i) the acquisition of a site or sites for the market;
- (ii) the establishment, maintenance and improvement of the market yard;
- (iii) the construction and repairs of buildings necessary for the purpose of the market yard and for convenience or safety of the persons using the market yard;
- (iv) The maintenance of standard weights and measures;

- (v) the meeting of establishment charges including payments and contributions towards provident fund, pension and gratuity of the officers and servants etc. of the Committee.
- (vi) Loans and advances to the employees of the Committee;
- (vii) the payment of interest on the loans that may be raised for the purpose of the market and provisions of sinking fund in respect of such loans;
- (viii) the collection and dissemination of information relating to crop statistics and marketing in respect of the agricultural produce;
- (ix) the expenses incurred in auditing the accounts of the Committee and expenses incurred in the maintenance of the offices;
- (x) payment of honorarium and travelling allowance to the Chairman and other non-official members of the Committee and employees of the Committee as may be prescribed;
- (xi) contribution to Marketing Development Fund;
- (xii) contribution to any scheme for development of agricultural marketing including transport;
- (xiii) for providing facilities like grading, standardization, and quality certification services and communication to agriculturist in the market area;
- (xiv) incurring expenses on research and development, extension and training to farmers in marketing of agricultural produce;
- (xv) prevention, in conjunction with other agencies, state, central and others of distress sale of agricultural produce;
- (xvi) fostering cooperative marketing and assisting cooperative marketing societies in the procurement and profitable disposal of produce particularly the produce belonging to small and marginal farmers;
- (xvii) create and promote on its own or through public – private partnership infrastructure and post harvest handling of agricultural produce, cold storages, precooling facilities, pack houses and all such infrastructure to develop modern

- market systems;
- (xviii) meeting any legal expenses incurred by the Committee;
- (xix) on the training and skill enhancement of staff of the Committee; and
- (xx) with the previous sanction of the Board, any other purpose which is calculated to promote the general interests of the Committee or the notified market area or any other purpose calculated to promote the national interest.

- Power to Borrow.** 52. (1)The Committee may, with the previous sanction of the Board, raise the money required for carrying on the purposes for which it is established on the security of any property vested in and belonging to the Committee and of any fees leviable by the Committee under this Act.
- (2) The Committee may, for the purpose of meeting the initial expenditure on lands, building, and equipments required for establishing the market, obtain loan from the State Government or the Board or other Committees or financial institutions on such conditions, as may be prescribed.

CHAPTER-VI CONTROL

- Inspection of Markets and inquiry into the affairs of the Committee.** 53. (1) The Managing Director of the Board may,-
- (a) inspect or cause to be inspected the accounts and offices of the Committee;
 - (b) hold inquiry into the affairs of a Committee;
 - (c) call from a Committee's return, statement, accounts or reports which he may think fit to require such Committee to furnish;
 - (d) require a Committee to take into consideration-
 - (i) any objection on the ground of illegality, inexpediency or impropriety which appears to him to exist to the doing of any thing which is about to be done or is being done by or on

behalf of such Committee; or
(ii) any information he is able to furnish and which appears to him to necessitate the doing of a certain thing by such Committee.

- (2) When the affairs of a market are investigated under this section or the proceedings of any Committee are examined by the Managing Director of the Board under section 55, the Chairman, Vice Chairman, Secretary and all other officers and servants and members of such Committee shall furnish such information in their possession in regard to the affairs or proceedings of the Committee as the Managing Director of the Board or other officer authorized, as the case may be, may require.
- (3) An officer investigating the affairs of a Committee under sub-section (1) or the State Government examining the proceedings of any Committee under section 54 shall have the power to summon and enforce the attendance of officers or members of the Committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1973. Where the Managing Director of the Board has reason to believe that the books and records of a Committee are likely to be tampered with or destroyed or the funds or property of a Committee are likely to be misappropriated or misapplied, the Managing Director of the Board may issue orders directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the Committee and the officer or officers of the Committee responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.

**Power to call
proceedings of
committee or Board.**

54. (1) The Managing Director of the Board or the State Government, as the case may be, may on its own motion or, on an application made to it, call for and examine the proceedings of any Committee or of the Board, as the case may be, for the purpose of satisfying itself as to the legality or propriety of any decision taken or order passed and as to the regularity of the proceedings of the Committee or the Board, as the case may be. If in any

case, it appears to the Managing Director of the Board or the State Government that any such decision or order or proceedings so called for should be modified, annulled, reversed, or remitted for reconsideration it may pass such order thereon as it may deem fit:

Provided that every application to the Managing Director of the Board or the State Government, as the case may be, shall be preferred within sixty days from the date of such decision or order to the Communication of applicant;

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

(2) The Managing Director of the Board or the State Government, as the case may be, may suspend the execution of the decision taken or order passed by the Committee or the Board, as the case may be, pending the exercise of its powers under sub-section(1)

Power to prohibit execution or further execution of resolution passed or order made by the committee.

55.

The Managing Director of the Board may, of its own motion, or on report or complaint received, by order prohibit the execution or further execution of a resolution passed or order made by the Committee or its Chairman or any of its officers or servants, if he is of the opinion that such resolution or order is prejudicial to the public interest, or is likely to affect efficient running of the business in any market area, principal market yards or sub-market yards or is against the provisions of this Act or the rules or bye laws made there under.

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

56.

(1)If in the course of enquiry or inspection under section 53 or in the course of audit under this Act, it is found that any person who is or was entrusted with the management of the Board or the Committee, as the case may, or any deceased past or present Chairman, Vice-Chairman, member or any other officer or employee of the Board or the Committee or an officer of the State Government has made or directed by assenting or concurring or participating in any affirmative vote or proceeding related thereto, any payment or application of any money or other

property belonging to, or under the control of such Committee to any purpose contrary to the provisions of this Act, rules or bye-laws made thereunder or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property belonging to the Board or the Committee, the Secretary of the Board may, on his own motion or on an application, enquire himself or direct any officer subordinate to him duly authorized by him by an order in writing in this behalf to enquire into the conduct of such person.

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

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard in the matter:

Provided further that the liability of a legal representative of the deceased shall be to the extent of the property of the deceased which is inherited by such legal representative.

- (3) Any person aggrieved by an order made under sub-section (2) may, within thirty days from the date of communication of the order to him, appeal to the State Government and the order of the State Government shall be final and conclusive:

Provided that in computing the period of limitation the time required for obtaining a copy of the order appealed against shall be excluded.

- (4) Any order made under sub-section (2) or sub-section (3) shall, on the application of the Secretary of the Board be enforced by any civil court having local jurisdiction in the same manner as if it were a decree of such court, or any sum directed to be paid by such

order may be recovered as arrears of land revenue.

- (5) If the Secretary of the Board is satisfied on affidavit, enquiry or otherwise that any person with intention to delay or obstruct the enforcement or any order that may be passed against him under this section is about to dispose of the whole or any part of his property, or is about to remove the whole or any part of his property from the State, he may, unless adequate security is furnished, direct, the conditional attachments of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as it may by a competent civil court.

Members, officers and officials of the Board and Committees to be public servants.

57. All members, officers and servants of the Board and the Committee shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code 1860.

Prohibition of trade allowances.

58. No trade allowance or deduction, other than prescribed by or under this Act or rules or bye-laws made there under, shall be made or received by any person in any market area in any transaction in respect of the notified agricultural produce.

Power to order production of accounts, entry, inspection and seizure.

59. (1) The Secretary of the Committee or any officer of the State Government or the Board, empowered by the State Government in this behalf may, for the purposes of this Act, require any person carrying on business in any kind of notified agricultural produce to produce before him the accounts and other documents and to furnish any information relating to stocks of such agricultural produce or purchase, sale, processing, value addition and delivery of such agricultural produce by such person and also to furnish any other information relating to payment of market fee by such person.
- (2) All accounts and registers maintained by any person in the ordinary course of business of any notified agricultural produce and documents relating to stocks of such agricultural produce or purchase, sale, processing, value addition of such agricultural produce in his possession and offices, establishment, godowns, vessels or vehicles of such persons shall be kept open for inspection at all reasonable time by such officers of the State Government, the Board or the Committee as may be authorized by the State

Government in this behalf.

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

**Submission of
annual accounts by
licensee and
registered
functionaries and
assessment.**

60.

- (1) Every trader, processor, proprietor of a private yard, proprietor of consumer farmer market or commission agent, carrying on business of notified agricultural produce shall, before the 30th June, every year submit to the Secretary of the Committee a statement of transaction undertaken by or through him during the previous financial years ending on the 31st March, in such form and in such manner as may be the prescribed.

- (2) The Secretary of the Committee shall accept or reject the statement submitted to him under sub-section (1) after necessary examination and verification on the basis of information duly available in the Committee and shall assess the balance amount payable by the functionary and levy the assessed amount.
- (3) Any person aggrieved by the proceedings of the Secretary of the Committee may, within thirty days from the date of Communication of notice to him, appeal to the Committee.
- (4) Any officer authorized by the Board may, on his own motion or on application made to the Board start process of re-verification of the statement verified by the Secretary of the Committee within two years from the date of verification and for this purpose such officer shall exercise the powers under section 59; and the re-verification made by such officer shall be final.

Assessment of market fee.

61. If any person required to produce accounts or furnish information under sub-section (1) of section 60, fails to produce such accounts or information or knowingly furnishes incomplete or incorrect accounts or information or has not maintained proper accounts of the business of the notified agricultural produce, the Secretary of the Committee, on his own motion, shall assess such person for fee levied under section 44 on the basis of information available with the committee.

Power to stop vehicles.

62. (1) At any time when so required, any officer of the Board empowered by the Board or any officer of the Committee empowered by the Committee in this behalf, as the case may be, may direct the driver or any other person in charge of the vehicle, vessel or other conveyance to stop such vessel or other conveyance, as long as may reasonably be necessary, and allow such person to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to notified agricultural produce carried, and give his name, address and name and address of owner of the vehicle, vessel or other conveyance and name and address of the owner of the notified agricultural produce carried in such

vehicle, vessel or other conveyance.

- (2) Persons empowered under sub-section (1) may seize any notified agricultural produce brought into or taken out or proposed to be taken out of the market area in any vehicle, vessel or other conveyance, if he has reason to believe that any fee or other amount due under this Act or the value payable to the seller in respect of such agricultural produce has not been paid.
- (3) If any person empowered under sub-section (1) has reason to suspect that any person is attempting to evade the payment of any market fee due from him under section 44 or that any person has purchased or stored any notified agricultural produce in contravention of any of the provisions of this Act or the rules or the bye-laws made thereunder in the market area, he may enter and search any place of business, warehouse, office, establishment or godown where the person empowered under sub-section (1) has reason to believe that such person keeps or has for the time being kept stock of notified agricultural produce and may seize the stored agricultural produce and such seized notified agricultural produce may be confiscated in favour of the market committee in accordance with the provisions of the Code of Criminal Procedure, 1973.
- (4) The provisions of section 100, 457, 458 and 459 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall apply to entry, search and seizure under sub-section (1), (2) and (3) as they apply in relation to the entry, search and seizure of property by the police officer. Such seizure shall forthwith be reported by the person aforesaid to a Magistrate having jurisdiction to try the offence under this Act.

Power to remove encroachments in market yard.

63.

- (1) Any officer or servant of the Committee or the Board empowered by the State Government, by notification, in this behalf shall have the power to remove any encroachment over the property owned by the Board/ or the Committee including the market yard, and the expenses of such removal shall be paid by the encroacher, if he fails to pay such expenses, the same shall be recovered in the same manner as

arrears of land revenue.

- (2) All Police Officers shall be bound to assist the officers empowered under sub-section (1), when required, in the performance of their duties under this Act, and for that purpose, shall have the same powers which they have in the discharge of their ordinary police duties.
- (3) If any officer or servant of the Board or the Committee empowered under sub-section (1) fails to remove the encroachment within the market yard, he shall be punished with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

Power to grant exemption from market fees.

64. (1) The State Government may, by notification and subject to such conditions and restrictions, as may be specified therein, exempt in whole or in part any agricultural produce brought for sale or bought or sold in the market area specified in such notification, from the payment of market fee for such period as may be specified therein.
- (2) Any notification issued under sub-section (1) may be rescinded before the expiry of the period specified therein and on rescission such notification shall cease to be in force.

Power to write off irrecoverable fee etc.

65. Whenever it is found that any amount is due to the Board or a Committee is irrecoverable or should be remitted, or whenever any loss of the Board's or a Committee's money or stores or other properties occur through fraud or negligence of any person or for any other cause and such property or money is found to be irrecoverable, the facts shall be reported to the Board or the Committee, as the case may be, and the Board, with the approval of the State Government, and the Committee, with the approval of the Board, may order the amount or value of the property to be written off as loss irrecoverable or remitted, as the case may be, provided that in case of a Committee, if in any case the amount due or the value of such property is in excess of five thousand rupees, such order shall not take effect without the approval of the State Government.

Recovery of sums due to the Board or the Committee.

66. Any sum due to the Board or the Committee from any person on account of any charges, costs, expenses, fees, rent and any other account under the provision of this Act or any rules or bye-laws made thereunder shall be recoverable as

arrear of land revenue.

Redressal of dispute between private market or consumer market and Committee.

67. Dispute between the private market or consumer market and Committee, shall be referred to the Secretary of the Board or any other officer authorized by the State Government in this behalf and shall be resolved after giving both parties a reasonable opportunity of being heard:

Provided that the decision of the authority under this section shall be final.

Appeal.

68. (1) Any person aggrieved by an order passed under sections 25,26 or 40 may prefer an appeal, in such form and in such manner as may be prescribed, to --
- (a) the Committee, where such order is passed by the Secretary of the Committee with in thirty days from the date of order;
 - (b) the Board, where such order is passed by the Committee with in thirty days from the date of order; and
 - (c) the State Government, where such order is passed by the Managing Director of the Board or by the Board, within thirty days from the date of such order.
- (2) The Appellate Authority, if it considers necessary to do so, grant stay of the order appealed against for such period as it may deem fit.
- (3) The order passed by the State Government under this section shall be final.

Bar to civil suit and protection to person acting in good faith.

69. No suit, prosecution or legal proceedings in respect of anything done in good faith or intended to be done under this Act or rule or bye-laws made thereunder, shall lye against the officer of the State Government or against the Board or any Committee or against any officer or servant of the Board or any Committee or against any person acting under the directions of such Board, Committee or any officer or servant of State Government Board or Committee.

**Bar to suit in
absence of notice.**

70. Notwithstanding anything contained in this Act, no suit shall be instituted against the Board or any Committee, until the expiration of two months next after notice in writing stating the cause of action, name and place of abode of the intending plaintiff, and the relief which he claims has been delivered or left at its office. Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of alleged cause of action.

**Power of State
Government to
amend the
SCHEDULE..**

71. (1) The State Government may, subject to previous publication, by notification, add to or delete there from any of the agricultural produce specified under column-2 in the SCHEDULE and there upon the said SCHEDULE shall stand amended accordingly.
- (2) Every notification issued under sub-section (1) shall, as soon as may be, after it is issued, be laid on the table of the Legislative Assembly.

CHAPTER-VII PENALTY

**Penalty for
contravention of
Act, Rules and Bye-
Laws**

72. Any person who contravenes any of the provisions of this Act, of any rule or bye-laws or order issued thereunder or fails to perform the duties assigned under this Act shall, on conviction, be punished with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both;

Provided that in the case of a continuing contravention, he shall be liable to be punished with a further fine which may extend to fifty rupees for every day during which the contravention is continued after the first conviction.

**Recovery of market
dues.**

73. Whenever any person is convicted of any offence punishable under this Act, the Magistrate shall in addition to any fine which may be imposed, recover summarily and pay over to the Board or the Committee, as the case may be, the amount of fee or any other amount due from him under this Act or rules or bye-laws made thereunder and may, recover and pay over to the Board or Committee, as the case may be, costs of the prosecution.

Cognizance of offences.

74. No court inferior to that of a Magistrate of the first class shall take cognizance of any offence punishable under this Act or rule or bye-laws made thereunder except on a complaint made by the Managing Director of the Board or by the Secretary of the Committee or, by any other person duly authorized by the Board or the Committee in this behalf.

Power to compound offences.

75. (1) The Committee may accept, from any person who has committed or is reasonably suspected of having committed an offence under this Act (other than contravention of section 27 of this Act), or the rules or bye-laws, by compounding of such offence,-
- (a) where the offence consists of the failure to pay or the evasion of any fee, or other amount recoverable under this Act or the rules or the bye-laws made thereunder in addition to the fee or other amount so recoverable, a sum of money not less than the amount of the fee or other amount and not more than five times the amount of fee or other amount; and
 - (b) in other cases a sum of money not exceeding five thousand rupees.
- (2) On the compounding of any offence under subsection (1), no proceeding shall be taken or continued against the person concerned in respect of such an offence, and if any proceedings in respect of that offence have already been instituted against him in any court, the compounding shall have effect of his acquittal.

CHAPTER-VIII MISCELLANEOUS

Mode of making contract.

76. (1) Subject to the provisions of this Act, no contract or agreement on behalf of the Committee for the purchase, sale, lease, mortgage or other transfer of, or acquisition of interest in immovable property shall be executed except with the previous sanction of the Committee.
- (2) Save as provided in sub section (1)--
- (a) Secretary of the Committee may execute contract or agreement on behalf of the

Committee where the amount or value of such contract or agreement does not exceed rupees five thousand regarding matters in respect of which he is generally or specifically authorized to do so by a resolution of the Committee;

- (b) The Chairman and the Secretary of the Committee may jointly execute a contract or an agreement on behalf of the Committee when the amount or value of such contract or agreement does not exceed rupees twenty thousand;
- (c) In any case other than those referred to in clauses (a) and (b), a contract or agreement on behalf of the Committee may be executed by the Chairman, Secretary and two other members of the Committee of whom one shall be ex-officio member who have been generally or specially authorized by a resolution of the Committee to do so.

- (3) Every contract entered into by the Committee shall be in writing and shall be signed on behalf of the Committee by the person or persons authorized to do so under sub-section (2).
- (4) No contract other than a contract executed under the provisions of sub-section (1), (2) or (3) shall be binding on the Committee.
- (5) Where a contract or agreement is entered into on behalf of a Committee, the Secretary of the Committee shall report the fact to the Committee its next meeting held after the date of entering into such contract or agreement.

Octroi not payable on certain agriculture produce.

77.

Notwithstanding anything contained in the Himachal Pradesh Municipal Act, 1994 and the Himachal Pradesh Municipal Corporation Act, 1994, the State Government may, by notification, direct that in respect of such agricultural produce, notified under section 19, brought or received within a notified market area, as may be specified in the notification, no octroi shall be payable by any person to a Municipal Committee or Municipal Corporation, as the case may be, from such date as may be specified therein.

**Acquisition of land
for the Board and
Committee.**

78. (1) When any land is required for the purposes of this Act, the State Government may, on the request of the Board or a Committee, as the case may be, requiring it, proceed to acquire land under the provisions of the Land Acquisition Act 1894 and on payment by the Board or Committee, as the case may be, of the compensation awarded under that Act and of all other charges incurred by the State Government on account of the acquisition, the land shall vest in the Board or the Committee, as the case may be.

- (2) The Board or a Committee shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894.

**Supersession of the
Board and the
Committee.**

79. (1) When the State Government is of the opinion that the Board has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification published in the Official Gazette, supersede the Board:

Provided that no order of supersession shall be passed unless the State Government has afforded reasonable opportunity to the Board by submitting a written explanation in respect of the allegations against it.

- (2) Where the State Government is of the opinion that a Committee has failed in the performance of its functions or discharge of its duties or has exceeded or abused the powers conferred on it by or under this Act, it may, by notification in the official Gazette, supersede the Committee:

Provided that no order of supersession shall be passed unless the State Government has afforded reasonable opportunity to the Committee of submitting a written explanation in respect of the allegations against it.

- (3) Upon publication of the notification superseding a Committee under sub-section (2), all the members including the Chairman shall, cease to hold the office, and the State Government shall take steps to constitute a new Committee under section 30 and till

such time a new Committee is constituted, the Board shall make such arrangements for carrying out the functions of the Committee as it may deem fit for the period not exceeding six months and may, for that purpose, direct that all the functions, powers and duties of the Committee and its Chairman, under this Act, shall be performed, exercised and discharged by such person or authority as the Board may appoint in this behalf and such person or authority shall be deemed to be the Committee or the Chairman, as the case may be.

Reference to Arbitrator in case of dispute.

80.

(1) If any dispute arises out of any agreement or contract entered into, under the provisions of this Act, rules or bye-laws made thereunder, between the sponsor and contract farming producer or between the Board and the trader or between the Committee and the trader, the same shall be resolved through conciliation and arbitration.

(2) The Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to the conciliation and arbitration proceedings referred under sub-section (1).

Abolition of the Himachal Pradesh Marketing Board and transfer of its assets and liabilities.

81.

(1) On and with effect from the date of establishment of the Himachal Pradesh State Agricultural Marketing Board under section 3 of this Act, the Himachal Pradesh Marketing Board established under the Himachal Pradesh Agricultural Produce Markets Act, 1969, shall stand abolished.

(2) On and with effect from the date of abolition of the Himachal Pradesh Marketing Board under sub-section (1)--

(a) the members including the Chairman of the Himachal Pradesh Marketing Board shall cease to hold office;

(b) all properties, funds and dues which are vested in or realisable by the Himachal Pradesh Marketing Board shall vest in and be realisable by the Board; and

(c) all liabilities which are enforceable against the Himachal Pradesh Marketing Board shall be enforceable against the Board.

(3) All contracts, agreements, and other instruments entered into immediately before the abolition of the

Himachal Pradesh Marketing Board under sub-section(1) and to which the Himachal Pradesh Marketing Board is a party or which are in favour of the Himachal Pradesh Marketing Board shall be deemed to have been entered into by, with or for the Himachal Pradesh State Agricultural Marketing Board.

- (4) All suits, appeals or other legal proceedings instituted or which could have been instituted by or against the Himachal Pradesh Marketing Board, immediately before its abolition under sub-section (1), shall be continued or instituted by or against the Board.

Explanation- For the purpose of this sub-section, legal proceedings includes any proceedings under the Land Acquisition Act, 1894 (Central Act 1 of 1894).

- (5) All employees of the Himachal Pradesh Marketing Board shall, on and from the date of its abolition under sub-section (1), become employee of the Board, and shall hold office in the Board on the same terms and conditions of service and shall continue as such unless and until their terms and conditions of service are altered by the Board with the previous approval of the State Government.
- (6) Notwithstanding anything contained in sub-section (5), where any employee of the Himachal Pradesh Marketing Board, by notice in writing given to the Board at any time before the expiry of three months next following the date of abolition of the Himachal Pradesh Marketing Board under sub-section (1), has intimated his intention of not becoming an employee of the Board, he shall cease to be an employee of the Board and shall be entitled to get such gratuity, provident fund and other retirement benefits as are ordinarily admissible to him under the rules or authorization of the Himachal Pradesh Marketing Board immediately before its abolition.
- (7) If any dispute or doubt arises as to which of the properties, rights or liabilities of the Himachal Pradesh Marketing Board transferred to the Board or as to which of the employees serving under the Himachal Pradesh Marketing Board are to be treated as employees of the Board under this section, such dispute or doubt shall be referred to the State Government whose decision thereon shall be final.

Abolition of Market Committees and transfer of their assets and liabilities.

82.

- (1) On and with effect from the date of establishment of the Agricultural Produce Market Committees under section 29 of this Act, the Market Committees established under the Himachal Pradesh Agricultural Produce Markets Act, 1969, shall stand abolished.
- (2) On and with effect from the date of abolition of the Market Committees under sub-section (1)-
 - (a) the members including the Chairman of the Market Committees shall cease to hold office;
 - (b) all properties, funds and dues which are vested in or realizable by the Market Committees shall vest in and be realizable by Agricultural Produce Market Committees; and
 - (c) all liabilities which are enforceable against the Market Committees shall be enforceable against the Agricultural Produce Market Committees.
- (3) All contracts, agreements, and other instruments entered into immediately before the abolition of the Market Committees under sub-section(1) and to which such Market Committees are a party or which are in favour of such Market Committees shall be deemed to have been entered into by, with or for the respective Agricultural Produce Market Committees.
- (4) All suits, appeals or other legal proceedings instituted or which could have been instituted by or against the Market Committees, immediately before their abolition under sub-section (1), shall be continued or instituted by or against the rrespective Agricultural Produce Market Committees.

Explanation,- For the purpose of this sub-section, legal proceedings includes any proceedings under the Land Acquisition Act, 1894 (Central Act 1 of 1894).

- (5) All employees of the Market Committees shall, on and from the date of their abolition under sub-section (1), become employee of the Agricultural Produce Market Committees, and shall hold office in such Market Committees on the same terms and conditions of service and shall continue as such unless and until their terms and conditions of service are altered by the Board with the previous

approval of the State Government.

(6) Notwithstanding anything contained in sub-section (5), where any employee of the Market Committees, by notice in writing given to the Board at any time before the expiry of three months next following the date of abolition of the Market Committees under sub-section (1), has intimated his intention of not becoming an employee of the Agricultural Produce Market Committees, he shall cease to be an employee of Agricultural Produce Market Committees and shall be entitled to get such gratuity, provident fund and other retirement benefits as are ordinarily admissible to him under the rules of the Himachal Pradesh Marketing Board immediately before its abolition.

(7) If any dispute or doubt arises as to which of the properties, rights or liabilities of the Market Committees transferred to the Agricultural Produce Market Committees as to which of the employees serving under the Market Committees are to be treated as employees of the Agricultural Produce Market Committees under this section, such dispute or doubt shall be referred to the State Government whose decision thereon shall be final.

Power to make rules.

83.

(1) The State Government may after previous publication, make rules, consistent with this Act, for carrying out all or any of the purposes of this Act.

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

- (a) the quantity of agricultural produce for retail sale under section 2 (zl);
- (b) the sitting fee and allowances to be paid from the fund of the Board to the Chairman and non-official members of the Board under section 10;
- (c) the procedure and form for the maintaining the accounts of the Board and audit thereof under sub-section (2) (v) of section 11;
- (d) the duties and functions to be discharged by the Agricultural Produce Marketing Standards Bureau for the promotion of grading, standardization and quality certification of agricultural produce under

- sub-section (2) (xii) of section 11;
- (e) the procedure to be followed in exercise of supervision and control over officers and staff of the Board by the Secretary in the matter of administration, accounts and records and disposal of all questions relating to the service of the employees;
 - (f) the powers and duties to be exercised and discharged by the Secretary of the Board under section 12 (iii);
 - (g) the procedure to be followed in maintaining records of the proceedings of the meetings of the Board under section 12 (viii);
 - (h) the development of infrastructure to establish consumers or farmers markets and the procedure for the sale of agricultural produce by the producer direct to the consumer in the market area under section 23 (1);
 - (i) the form of agreement for contract farming and the manner in which a person shall enter into agreement with contract farming producer under section 24;
 - (j) the application for grant and renewal of licence for establishment of private yard, consumer and farmer market, the period for which the licence is to be issued, the form of licence and the conditions and the fee to be charged for grant of such licence under section 25 (1);
 - (k) the disqualifications for suspension/cancellation of licence under section 26 (e);
 - (l) the maximum quantity which can be sold by the producer direct to any person for domestic consumption and the maximum quantity of the agricultural produce purchase or sale of which can be under taken by petty trader under sub-section (2) of section 27;
 - (m) the transparent system to be followed for settlement of price of the notified agricultural produce for sale into the market yard under sub-section(2) of section 28;
 - (n) the manner and procedure to be followed by the Committee for the conduct of its

- business under sub-section (3) of section 34;
- (o) the procedure to be followed by the Committee to regulate the making, carrying out and enforcement or cancellation of agreements of sales weightment, delivery, payment and other matters relating to the market of notified agricultural produce under clause (iv) of sub-section (2) of section 39;
 - (p) the form and the manner and procedure to be followed for the maintaining of books of accounts and other documents by the market functionaries under clause (xvi) of sub-section (2) of section 39;
 - (q) the procedure and the manner to be followed for maintaining and circulating the data of arrivals and rates of agricultural produce standard wise brought into the market area for sale under clause (iv) of sub-section (3) of section 39;
 - (r) the form of application for registration or renewal of registration, the form of registration/ certificate or renewal of registration certificate, the period within which application for registration or renewal of registration is to be made and the fee for such registration or renewal of registration under section 40 (1) (3);
 - (s) the manner and the procedure to be followed by the Committee for levy and collection of market fee under section 44;
 - (t) the terms and conditions subject to which financial weak committees may be aided by granting loans and grants out of the marketing development fund under clause (v) of sub-section (4) of section 46;
 - (u) the form, time and procedure to be followed in preparation of annual report by the Board under sub-section (1) of section 48;
 - (v) the manner in which the surplus remaining with the Committee shall be invested under sub-section (1) of section 49;
 - (w) the manner in which any money received by the Committee by way of arbitration fee,

Power to make Bye-Laws. 84.

security for cost in arbitration proceeding, security deposit, contribution to provident fund, payment in respect of any notified agricultural produce, other charges payable by the Committee or such other money received by the Committee under the rules or bye-laws, shall be kept under sub-section (2) of section 49;

- (x) the form, procedure and manner and the period within which the Committee shall prepare and pass the budget and its income and expenditure for the ensuing year under sub-section (1) of section 50;
- (y) the manner and procedure for payment of honorarium and traveling allowance to the Chairman and other non-official members of the Committee and to the employees of the Committee under clause (x) of section 51;
- (z) the conditions subject to which the Committee for the purpose of meeting the initial expenditure on lands, buildings and equipments required for the establishment of market, may obtain loan from the State Government or the Board or other Committees or financial institutions under sub-section (2) of section 52;
- (za) the form and the manner in which a statement of transaction shall be submitted to the Secretary of the Committee for the previous financial year ending on 31st March under sub-section (1) of section 60;
- (zb) the form and the manner in which an appeal may be filed under sub-section (1) of section 68; and
- (zc) any other matter which is to be or may be prescribed.

(3) All rules made under this Act shall be laid, as soon as may be, after they are made, before the Legislative Assembly, while it is in session, for a total period of fifteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the Assembly agrees in making any modifications in the rules or

Assembly decides that the rule should not be made, such rules shall have effect only in such modified form or be of no effect, as the case may be. However, that any such modification or annulment shall be without prejudice to the validity of anything done earlier under that rule.

(4) Every rule made under this shall, as soon as may be after they are made be laid before the Legislative Assembly.

Power to make Regulations.

85.

(1) Subject to any rules made by the State Government under section 83, the Board may, in respect of the notified market area, make bye-laws for,-

- (i) the regulation of business of the Market Committee.
- (ii) the conditions of trading in a market;
- (iii) the delegation of powers, duties and functions to a sub-committee, if any.
- (iv) enabling and regulating e-trading;
- (v) any other matters for which bye-laws are to be made under this Act or it may be necessary to frame bye-laws for effectively implementing the provisions of this Act and the rules made there under in the market area;

(2) No bye-law shall take effect until it has been published for information and notified in the Rajpatra, Himachal Pradesh.

Repeal and savings.

86.

Subject to the rules made under this Act, the Board may with the previous approval of the State Government frame regulations for –

- (a) summoning and holding of meetings of the Board, the time and date when such meetings are to be held, the conduct of business at such meetings;
- (b) powers and duties of the officers and other employees of the Board;
- (c) salaries and allowances and other conditions of service of officers and other employees of the Board and the Market Committees.
- (d) Management of the property of the Board;
- (e) Execution of contracts on behalf of the Board;
- (f) Maintenance of accounts and the preparation of balance sheet by the Board;

- (g) Procedure for carrying out the functions of the Board under this Act;
- (h) Other matter for which provision is to be or may be made in regulation.

The Himachal Pradesh Agricultural Produce Markets Act, 1969 (Act No.9 of 1970), is hereby repealed:

Provided that such repeal shall not affect,-

- (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder, or
- (b) the right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act has not been enforced:

Provided further that subject to the preceding proviso any thing done or any action taken (including any appointment, or delegation made, notification, notice, order, instruction or direction issued, rules, regulation, bye-laws, form, scheme framed, certificate obtained, permit or licence granted, registration affected, fee levied), under the repealed Act shall, in so far as it is in force immediately before the coming into force of this Act and is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by any thing done or any action taken under this Act;

THE SCHEDULE

(See section 2 (a) and section 71)

Item	English Name	Hindi Name
1.	2.	3.
1. Cereals	1. Paddy	Dhan
	2. Rice	Chawal
	3. Wheat	Kanak
	4. Maize	Makki
	5. Barley	Jau
	6. Buck Wheat	Kutu
2. Pulses	1. Pigeon pea	Arhar
	2. Lentil	Massur
	3. Black gram	Urd
	4. Green gram	Moong
	5. Peas dry	Matar khushk
	6. Cow peas	Lobhia
	7. Pulses split	Dal Dali
	8. Gram	Chana
	9. French bean/ Soyabean.	Rajmash/Bhararh.
3. Oilseeds	1. Mustard	Sarson
	2. Indian rape	Toria
	3. Linseed	Alsi
	4. Groundnut shelled and unshelled.	Mungphali
	5. Sesamum	Til
4. Fruits	1. Mango	Am
	2. Banana	Kela
	3. Lichies	Lichies
	4. Sweet orange	Malta
	5. Lemon	Neemboo
	6. Grapes	Angoor
	7. Pomegranate-seed.	Anardana
	8. Apple	Saib

9.	Orange	Sangtra
10.	Peach	Aru
11.	Plum	Alucha
12.	Pears	Naspati
13.	Guava	Amrud
14.	Chilgoza	Niyoz
15.	Apricot	Khurmani
16.	Persimon	Japani Phal
17.	Watermelon	Tarbuz
18.	Walnut	Akhrot
19.	Almond	Badam
20.	Musk-Melon	Kharbooza
21.	Papaya	Papita

5. Vegetables

1.	Potatoes	Alu
2.	Onion dry	Piaz Khushk
3.	Brinjal	Baingan
4.	Bottle gourd	Ghia
5.	Lady's finger	Bhindi
6.	Red gourd	Halwa Kadu
7.	Tomato	Tamator
8.	Cauliflower	Phulgobhi
9.	Cabbage	Bandhgobhi
10.	Sponge gourd	Ghia-tori
11.	Green peas	Matar hari
12.	French bean	Pharas bean
13.	Leaves of Indian colza mustard and spanich etc.	Sag
14.	Carrot	Gajar
15.	Raddish	Muli
16.	Turnip	Salgam
17.	Tinda gourd	Tinda
18.	--	Kathal
19.	--	Zami Kand
20.	Arum	Arbi
21.	--	Kachalu
22.	Fenu greek	Methi hari
23.	Hill capsicum	Mirch badi
24.	Bitter gourd	Karela
25.	Ash gourd	Petha
26.	Cucumber	Khira

6. Fibres.

1.	Cotton ginned and unginned.	Kapas Aur rui
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7. Animal Husbandry Products.	1.	Poultry	--
	2.	Eggs	Anda
	3.	Cattle	--
	4.	Sheep	Bhed
	5.	Goat	Bakri
	6.	Wool	Oon
	7.	Butter	Makhan
	8.	Ghee	Ghee
	9.	Milk	Dudh
	10.	Goat meat and Mutton.	Bakri-aur Bhed-ka-gosht.
	11.	Fish	Machhali.
8. Condiments, spices and other.	1.	Ginger	Adarak
	2.	Garlic dry	Lahasn khushk
	3.	Chillies dry and green.	Mirch
	4.	Turmeric	Halri
	5.	Coriander	Dhaniya khushk and hara.
9. Narcotics	1.	Tabacco	Tambaku
10. Miscellaneous	1.	Sugarcane	Ganna
	2.	Gur and Shakkar	Gur aur Shakkar
	3.	--	Khandsari
	4.	Bark of walnut	Dandassa
	5.	--	Dhoop
	6.	Edible mushroom	Guchi
	7.	--	Banakhsa
	8.	Bhabar grass	Bhabar ghas
	9.	Discoria	Singli-Mingli
	10.	Kmru Patti/ Pathis.	Pattis
	11.	Catechu	Katha
	12.	Viola	Ambla
	13.	Sausarealappa	Kuth]
	14.	Timber	Imarti Lakri.

विधि विभाग

अधिसूचना

शिमला-2, 27 सितम्बर, 2016

संख्या: एल0एल0आर0-डी(6)-13/2016-लेज.-हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 200 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 22-09-2016 को अनुमोदित हिमाचल प्रदेश कृषि एवं औद्योगिकीय उपज विपणन (विकास एवं विनियमन) संशोधन विधेयक, 2016 (2016 का विधेयक संख्यांक 13) को वर्ष 2016 के अधिनियम संख्यांक 14 के रूप में संविधान के अनुच्छेद 348 (3) के अधीन उसके अंग्रेजी प्राधिकृत पाठ सहित हिमाचल प्रदेश ई-राजपत्र में प्रकाशित करते हैं ।

आदेश द्वारा,
(डा० बलदेव सिंह),
प्रधान सचिव (विधि)।

2016 का अधिनियम संख्यांक 14

हिमाचल प्रदेश कृषि एवं औद्योगिकीय उपज विपणन (विकास एवं विनियमन) संशोधन अधिनियम, 2016

(राज्यपाल महोदय द्वारा तारीख 22 सितम्बर, 2016 को यथाअनुमोदित)

हिमाचल प्रदेश कृषि एवं औद्योगिकीय उपज विपणन (विकास एवं विनियमन) अधिनियम, 2005 (2005 का अधिनियम संख्यांक 20) का संशोधन करने के लिए **अधिनियम**।

भारत गणराज्य के सड़सठवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :-

1. संक्षिप्त नाम.—इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश कृषि एवं औद्योगिकीय उपज विपणन (विकास एवं विनियमन) संशोधन अधिनियम, 2016 है।

2. धारा 2 का संशोधन.—हिमाचल प्रदेश कृषि एवं औद्योगिकीय उपज विपणन (विकास एवं विनियमन) अधिनियम, 2005 (2005 का 20) (जिसे इसमें इसके पश्चात् "मूल अधिनियम" कहा गया है) की धारा 2 के खण्ड (ठ) के पश्चात् निम्नलिखित नया खण्ड अन्तःस्थापित किया जाएगा, अर्थात् :-

"(ठक) "निदेशक, कृषि विपणन" से, कृषि विभाग का ऐसा अधिकारी अभिप्रेत है जैसा राज्य सरकार अधिसूचना द्वारा इस अधिनियम और तद्धीन बनाए गए नियमों या विधियों के प्रयोजनों के लिए पदाभिहित करे ;";

3. धारा 25 और 26 का संशोधन.—मूल अधिनियम की धारा 25 और 26 में "बोर्ड के/का प्रबन्ध निदेशक" शब्द जहाँ-जहाँ आते हैं, के स्थान पर "निदेशक, कृषि विपणन" शब्द और चिन्ह रखा जाएगा।

4. धारा 40 का संशोधन.—मूल अधिनियम की धारा 40 में,—

(क) उपधारा (1) में "संविदा खेती प्रायोजक," शब्दों और चिन्ह का लोप किया जाएगा और इस प्रकार संशोधित उपधारा (1) के पश्चात् निम्नलिखित परन्तुक अन्तःस्थापित किया जाएगा, अर्थात् :-

"परन्तु यदि ऐसा व्यक्ति मण्डी क्षेत्र में, व्यापारी, कमीशन अभिकर्ता, तोलने वाले, हमाल, सर्वेक्षक, भाण्डागारपाल, संविदा खेती प्रायोजक, प्रसंस्करण कारखाने के स्वामी या अधिभोगी या किसी अन्य मण्डी कृत्यकारी के रूप में, समिति से अन्यथा किसी व्यक्ति द्वारा प्रबंधित प्राइवेट मण्डी प्रांगणों, प्राइवेट मण्डियों, कृषक उपभोक्ता मण्डियों में प्रचालन की वांछा रखता है तो वह सम्बद्ध जिला के कृषि विभाग के उप निदेशक को या राज्य सरकार द्वारा इस निमित्त अधिसूचना द्वारा रजिस्ट्रीकरण के लिए या रजिस्ट्रीकरण का नवीकरण करने के लिए प्राधिकृत किसी अन्य अधिकारी को, जो ऐसा रजिस्ट्रीकरण प्रमाणपत्र, यथास्थिति, प्रदान करने या नवीकरण करने के लिए सक्षम होगा, ऐसी रीति में और ऐसी अवधि के भीतर, जैसी विहित की जाए, आवेदन करेगा।"; और

(ख) उपधारा (1) के अन्तिम परन्तुक में "बोर्ड के प्रबन्ध निदेशक" शब्दों के स्थान पर "निदेशक, कृषि विपणन" शब्द और चिन्ह रखा जाएगा।

5. धारा 68 का संशोधन.—मूल अधिनियम की धारा 68 की उपधारा (1) के खण्ड (ग) के स्थान पर निम्नलिखित खण्ड रखे जाएंगे, अर्थात् :-

"(ग) जहां ऐसा आदेश उप निदेशक द्वारा पारित किया गया है, वहां आदेश की तारीख से तीस दिन के भीतर, निदेशक, कृषि विपणन को; और

(घ) जहां ऐसा आदेश बोर्ड के प्रबन्ध निदेशक द्वारा या बोर्ड द्वारा या निदेशक, कृषि विपणन द्वारा पारित किया गया है, वहां ऐसे आदेश की तारीख से तीस दिन के भीतर, राज्य सरकार को।"

6. धारा 74 का संशोधन.—मूल अधिनियम की धारा 74 में, "समिति के सचिव द्वारा या इस निमित्त बोर्ड या समिति" शब्दों के स्थान पर "निदेशक, कृषि विपणन द्वारा या इस निमित्त उन में से किसी भी" शब्द और चिन्ह रखे जाएंगे।

AUTHORITATIVE ENGLISH TEXT

Act No. 14 of 2016

**THE HIMACHAL PRADESH AGRICULTURAL AND HORTICULTURAL
PRODUCE MARKETING (DEVELOPMENT AND REGULATION)
AMENDMENT ACT, 2016**

(AS ASSENTED TO BY THE GOVERNOR ON 22ND SEPTEMBER, 2016)

AN

ACT

to amend the Himachal Pradesh Agricultural and Horticultural Produce Marketing (Development and Regulation) Act, 2005 (Act No. 20 of 2005).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-seventh Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Himachal Pradesh Agricultural and Horticultural Produce Marketing (Development and Regulation) Amendment Act, 2016.

2. Amendment of section 2.—In section 2 of the Himachal Pradesh Agricultural and Horticultural Produce Marketing (Development and Regulation) Act, 2005 (hereinafter referred to as the “principal Act”), after clause (1), the following new clause shall be inserted, namely :—

“(1a) “Director of Agricultural Marketing” means such officer of the Agriculture Department as the State Government may, by notification, designate for the purposes of this Act and the rules or bye-laws made thereunder;”.

3. Amendment of sections 25 and 26.—In sections 25 and 26 of the principal Act, for the words “Managing Director of the Board” wherever these occur, the words “Director of Agricultural Marketing” shall be substituted.

4. Amendment of section 40.—In section 40 of the principal Act,—

(a) in sub-section (1), the words and sign “contract farming sponsor,” shall be omitted, and after sub-section (1) as so amended, the following proviso shall be inserted, namely :—

“Provided that if such person desires to operate in the private market yards, private markets, farmers consumer markets managed by a person other than a Committee in the market area as trader, commission agent, weighman, hamal, surveyor, ware houseman, contract farming sponsor, owner or occupier of the processing factory or any other market functionary, shall apply to the Deputy Director, Agriculture Department, of the district concerned or any other officer authorized by the State Government, by notification, in this behalf, for registration or renewal of registration in such manner and within such period as may be prescribed, who shall be competent to grant or renew, as the case may be, such registration certificate.”; and

(b) in sub-section (1), in last proviso, for the words “Managing Director of the Board”, the words “Director of Agricultural Marketing” shall be substituted.

5. Amendment of section 68.—In section 68 of the principal Act, in sub-section (1), for clause (c), the following clauses shall be substituted, namely :—

- “(c) the Director of Agricultural Marketing, where such order is passed by the Deputy Director, within thirty days from the date of order; and
- (d) the State Government, where such order is passed by the Managing Director of the Board or by the Board or by the Director of Agricultural Marketing, within thirty days from the date of such order.”.

6. Amendment of section 74.—In section 74 of the principal Act, for the words and sign “Secretary of the Committee or, by any other person duly authorized by the Board or the Committee”, the words “Director of Agricultural Marketing or by any other person duly authorized by any of them” shall be substituted.