

The Orissa Agricultural Produce Markets Act, 1956

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THE-ORISSA-AGRICULTURAL-PRODUCE-MARKETS-ACT-1956 of 1956

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The Orissa Agricultural Produce Markets Act, 1956 Statement of Objects and Reasons. - Agricultural producer is at present a victim of the unfair practice and undue exactions of a host of middlemen on whom he has to depend for marketing his surplus produce. It has been estimated that the Agricultural Producer is able to get only 5 to 19 annas in the rupee paid for his produce by the ultimate consumer. Unless the Agricultural Producer is assured of his legitimate share of the price paid by the consumer for his produce it will not be possible to bring about any improvement in the standard of living of the cultivators and sustain the progress achieved in expanding agricultural production. The unfair practices that are commonly practised by the wholesale traders in the course of their transactions with the agricultural producers are unfair deductions, non-use of standard weights and measures, unfair manipulation of weighing and measurement, taking very large quantities of free samples, levy of excessive market charges etc. The producer is also not in possession of market intelligence and is at the mercy of the brokers and commission agents who are always on the side of the wholesale traders. The Planning Commission have laid great emphasis repeatedly on the need for regulating markets to rectify the above defects by enacting a special legislation as has been done in Madras, Bombay, Hyderabad, Madhya Pradesh, Punjab and Pepsu. The present Bill has accordingly drawn up and it speaks to bring about regulation of markets. It is proposed to constitute Market Committees in selected areas and for selected commodities to be notified by the Government and in these areas the traders and commission agents will be licensed by the Committees who will exercise strict supervision over their operations and also fixed market charges, etc. The Market Committees will maintain separate staff for ensuring that the traders and other "market functionaries act strictly according to the conditions of their licences and correct weighment is done with standard Weights and Measures. The Committee will be a democratic body consisting of elected representatives of traders, agricultural producers, local bodies and officials nominated by the Government. Any dispute will be subject to the arbitration of the Committee and the Committee will also make up-to-date market intelligence available to the producers. As a result of such regulation the agricultural producers, it is hoped, will be able to get a fair deal in the

Market. For the Bill see the Orissa Gazette Extraordinary No. 69 of 1966 and for Select Committee Report, see Orissa Gazette Extraordinary., No. 106/ 18.8. 1956. Published vide Orissa Gazette Extraordinary dated 8.2.1957. See Notification. No. 598- Legislative/ 6.2.1957. An act to provide, for the better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the State of Orissa Whereas it is expedient to provide for the better regulation of buying and selling of Agricultural produce in the State of Orissa and establishment of markets for agricultural produce. It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India as follows :Chapter-I Preliminary

1. Short title, extent, and commencement.

(1) This Act may be called the Orissa Agricultural Produce Markets Act, 1956. (2) It extends to the whole of the State of Orissa. (3) It shall come into force at once.

2. Definitions.

(1) In this Act, unless there is anything repugnant in the subject or context—(i) ["Agricultural Produce" means such produce (whether processed or not) of agriculture, forest, animal husbandry, agriculture, horticulture and pisciculture as are specified in the Schedule;] [Substituted vide Act No. 27 of 1984, Section 2 (i) (a).] (ii) [] [Substituted vide Act No. 27 of 1984, Section 2 (i) (a).] "Agriculturist" means a person who ordinarily, by his own labour or by the labour of any member of his family or who, by the labour of his tenants, servants, hired labourer or otherwise, is engaged in the production or growth of agricultural produce which has not-been processed but does not include a trader, commission agent, processor or broker in or in relation to agricultural produce although such trader, commission agent, processor or broker may also be engaged in the production or growth of agricultural produce; [(ii-a)] [Substituted vide Act No. 27 of 1984, Section 2 (i) (a).] "Board" means the Orissa State Agricultural Marketing Board established under Section 18-A of the Act; (iii) "Bye-laws" means bye-laws made under Section 28; (iv) ["Director" means the person appointed as Director of Agricultural Marketing for the State of Orissa and includes a Joint Director, Deputy Director and any other officers appointed by the State Government for the purposes of the Act ;] [Substituted vide Act No. 27 of 1984, Section 2 (i) (a).] (v) [* * *] [Omitted vide Act No. 27 of 1984, Section 2 (i) (c).] (vi) ["Market" means a market declared as such under Sub-section (5) of Section 4 and includes market yard;] [Substituted vide Act No. 27 of 1984, Section 2 (i) (d).] (vii) ["Market area" means any area declared as such under Subsection (1) of Section 4;] [Substituted vide Act No. 27 of 1984, Section 2 (i) (d).] (viii) "Market Committee" means a committee established under Section. 5; [(viii-a) "Market functionary" includes a broker, commission agent, exporter, processor, stockist, trader, vehicle owner and such other persons as may be declared under the rules or bye-laws to be a market functionary ;] [Inserted vide Act No. 27 of 1984, Section 2 (i) (e).] (ix) ["Market yard" means any enclosure, building or locality in any market area declared as market yard under Sub-section (5) of Section 4] [Substituted vide Act No. 27 of 1984, Section 2 (i) (f).] (x) "Municipality" includes a Notified Area [* * *] [Omitted vide Act No. 27 of 1984, Section 2 (i) (g).] (xi) "Prescribed" means prescribed by rules made under this Act and (xii) ["Retail sale" in relation to any agricultural produce means the sale of that produce not exceeding such quantity as may be prescribed :] [Substituted vide Act No. 27 of 1984, Section 2 (i) (h).] Provided that the sale of

cattle, sheep or goat shall not be considered for the purpose of determining any retail sale;(xiii) ["Trader" means a person who buys or sells agricultural, produce as a principal or as a duly authorised agent of any person;] [Inserted vide Act No. 27 of 1984, Section 2 (i) (i).](xiv) ["Warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing agricultural produce being goods on behalf of depositors, but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers and the like;] [Substituted vide Act No. 27 of 1984, Section 2 (ii).](2) If a question arises whether any person is or is not an agriculturist for the purpose of this Act, the [decision of the Board on such question] [Substituted vide Act No. 27 of 1984, Section 2 (ii).] shall be final. Chapter-II Constitution of Markets and Market Committee

3. Notification of intention of exercising control over purchase and sale of agricultural produce.

(1) The State Government may by notification declare its intention of regulating the purchase and sale of such agricultural produce and in such area, as may be specified in the notification. Such notification may also be published in the regional language of the area in a newspaper circulated in the said area or in such other manner as the State Government may deem fit. (2) Any objection or suggestion which may be received by the State Government within a period of not less than one month to be specified in the said notification may be considered by the State Government.

4. Declaration of market area.

(1) After expiry of the period, specified in the notification issued under Section 3 and after considering such objections and suggestions as may be received before such expiry and after holding such inquiry as may be necessary, the State Government may, by ratification declare the area specified in the notification under Section 3 or any portion thereof to be a market area for the purpose of this Act in respect of all or any of the kinds of agricultural produce specified in the said notification. A notification under this section may also be published in the regional language of the area in a newspaper circulated in the said area or may be published in such other manner as the State Government may deem fit. (2) For the removal of doubts, it is hereby declared that a notification published in the Gazette under Section 3 or under Sub-section (1) shall have full force and effect notwithstanding any omission to further publish the same in any other manner, or irregularity or defect in such further publication in pursuance of Section 3 or Sub-section (1), as the case may be. (3) [On and from the date of notification issued under Sub-section, (1) or such later date as may be specified therein, no local authority or person shall, notwithstanding anything contained in any other law for the time being in force, set up, establish or continue or allow to be set up, established or continued any place for the purpose of sale and purchase of any agricultural produce within the market area or within a distance thereof to be notified in the Gazette in this behalf in each case by the State Government: Provided that the State Government may, subject to such terms and conditions as they may impose, permit the continuation of any place in the market area for the marketing of any agricultural produce as aforesaid for such period not being later than the date of declaration of market yard within the market area as they may specify. (4) Notwithstanding anything to the contrary contained in any law for the time being in force,

the market committee may, after a notification issued under Sub-section (1), by requisition, require any Municipality or Grama Panchayat to transfer to it any land or building in possession of such Municipality or Grama Panchayat wholly or partly situated within the concerned market area which immediately before the establishment of the market was being used by such Municipality or Grama Panchayat for similar purpose, and the Municipality or Grama Panchayat, as the case may be, shall within one month from the date of receipt of the requisition, transfer the land or building or both, as specified in the requisition to the market committee and the net income derived therefore by the market committee under Section 11 shall be shared equally by the market committee and the concerned Municipality or Grama Panchayat, every year: Provided that the share of the Municipality or Grama Panchayat in any one year shall not be less than eighty per cent of the average net income derived by it from land or building or both so transferred during the three years immediately preceding the transfer. Explanation - For the purpose of determining the net income, the expenditure on establishment, stationery and cost of maintenance on construction or forty per cent of the gross income, whichever is less, shall be deducted from the gross income. (5) After the issue of the notification under Sub-section (1), the State Government shall, as soon as possible on the recommendation of the Director, declare by notification, market yards and markets in the market area specifying the area over which each market shall extend around the respective market yard. (6) Subject to the provisions of this section and of the rules regulating the marketing of agricultural produce at any place in the market area, no person shall, on and after the date on which the declaration is made under Sub-section (5), without or otherwise than in conformity with the terms and conditions of a licence granted by- (a) the Director, when a market committee has not been constituted or has not started functioning; or (b) the market committee, in any other case- (i) use any place in the market area for the marketing of agricultural produce specified in the said declaration, or (ii) operate in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor or warehouseman or in any other capacity in relation to the marketing of such agricultural produce: Provided that when any agricultural produce brought into any market area for the purpose of processing only, or for export, is not processed or exported therefrom within thirty days from the date of its arrival therein, it shall, until the contrary is proved, be presumed to have "been brought into the market area for buying or selling: Provided further that nothing in Clause (i) shall apply to the retail sale by an agriculturist of his own produce, or to sale by a person not being a trader or agriculturist, where such person himself sells to another who buys for his personal consumption or his family. (7) Subject to the provisions of Section 3, the State Government may at any time by notification, exclude from a market area, any area comprised therein or any agricultural produce in relation to such market area, or include in any market area, any area or any agricultural produce included in a notification issued under Section 3.] [Substituted vide Act No. 27 of 1984, Section 3.]

5. Establishment of Market Committee.

- The State Government shall establish a Market Committee for every market area in respect of the agricultural produce for which the said area is declared to be a market area under Section 4. It shall be the duty of the Market Committee to enforce the provisions of this Act, and the rules and bye-laws made thereunder and the conditions of the licence granted under Sub-section (3) of Section 4 in such market area and within such distance thereof as may be specified in the

notification under Subsection (1) of Section 4 and, when so required by the State Government, to establish a market therein providing for such facilities as the State Government may from time to time direct in connection with the purchase and sale of the agricultural produce concerned.

6. Constitution of Market Committee.

- [(1) Every Market Committee shall be constituted in the manner prescribed and shall consist of seventeen members, of whom.- (i) four shall be persons elected by the licensed traders from among themselves ; (ii) eight shall be persons elected by Organisation of agriculturists in the market area recognised by the State Government for the purpose and where no such Organisation exists, they shall be nominated by the Collector of the district ; (iii) two shall be persons elected by the local authorities within whose limits the market area is situated, of whom- (a) one shall be elected by the Councillors of the Municipality; and (b) the other shall be elected by the members of the Grama Panchayat: Provided that where the market area comprises areas included within more than one Municipality or, as the case may be, Grama Panchayat such member shall be elected by the Councillors of the Municipalities or, as the case may be, members of the Grama Panchayats, concerned, in the prescribed manner : Provided further that where the market area is only within the limits of a Municipality or Municipalities or, as the case may be, of a Grama Panchayat or Grama Panchayats both such members shall be elected by the Councillors of the Municipality or Municipalities or, as the case may be, by the members of the Grama Panchayat or Grama Panchayats, concerned, in the prescribed manner : Provided also that a person to whom a license has been granted under Sub-section (6) of Section 4 shall not be eligible for being elected under this clause; (iv) the remaining members shall be persons nominated by the State Government of whom one shall be a person from amongst the members of the local Co-operative organisations; and the Collector of the district or such other Revenue Officer as the State Government may deem proper, to nominate. (2) Notwithstanding anything contained in Sub section (1)-(a) on the failure of the licensed traders, any Organisation or authority to elect a member under Sub-section (1) within a period of three months from the date of the occurrence of the vacancy, the State Government shall give notice in writing to the licensed traders, Organisation or authority concerned to elect a member within a month from the date of such notice and on the failure of the said traders, Organisation or authority again to elect a member within the said period, the State Government shall nominate a person on behalf of such traders, Organisation or authority as a member of the Market Committee; and (b) when a Market Committee is constituted for the first time, all the members of the Market Committee shall be person nominated by the State Government.] (3) Every member of a Market Committee first constituted shall hold office for a term of two years from the date of the first general meeting of the Market Committee and every member elected or nominated thereafter shall hold office for a term of three years : Provided that notwithstanding the expiry of his term of office every member of the Committee shall continue to hold office until the date of the general meeting of the Committee next following the date of such expiry. (4) A member elected under Sub-section (1) shall cease to hold office as such member if he ceases to be a member of the electorate by which one of the persons by whom he was elected, and in the case of a member elected under Clause (iii) of the said Sub-section, if he is granted a licence under [Sub-section (6)] [Substituted vide Act No. 27 of 1984, Section 4 (ii).] of Section 4. (5) If at any time a vacancy occurs through the non-acceptance of office by a person elected or nominated or through the death, disqualification or resignation of a member

or in the event of his ceasing to be a member before the expiry of his term of office, the vacancy shall be filled up by the election or nomination, as the case may be, of a person thereto in the manner specified above. Every such person shall hold office so long only as the member in whose place he is elected or nominated, would have held it if the vacancy had not occurred.(6)There shall be a Chairman and a Vice-Chairman for every Market Committee, who shall be nominated by the State Government.(7)No act done by a Market Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Committee.[Chapter-II-A]
[Inserted vide Orissa Act No. 5 of 2006 O.G.E. No. 660 dated 17.5.2006 (w.e.f. 6.6.2006).]
Establishment of Private Markets

6A. Grant of licence for establishment of private markets.

(1)Notwithstanding anything contained in this Act or any other law for the time being in force, any person Or body of persons like company registered under the Companies Act, 1956 or a co-operative society registered under the Orissa Co-operative Societies Act, 1962 or a co-operative registered under the Orissa Self-Help Co-operative Act, 2001, may, after obtaining a licence from the State Government, establish a private market for the purpose of sale or purchase of any agricultural produce within such area as the State Government may, by notification, declare and subject to such conditions and restrictions as may be specified therein :Provided that, no licence shall be granted for the purpose of sale or purchase of common varieties of paddy and rice, and for the establishment of any private market within a radius of one kilometre from an existing market yard.(2)Any person or body of persons mentioned in Sub-section (1) may apply to the State Government for grant of a licence to establish a private market within the area notified under the said sub-section, in such form, in such manner and with such fees, as may be prescribed.(3)Subject to such conditions and restrictions as may be prescribed, the State Government may grant a licence in the prescribed manner :Provided that the licence shall not be granted if the applicant, -(a)is a minor;(b)is in arrear of dues payable under this Act or Rules or Bye-laws made thereunder;(c)has been convicted and sentenced by a Court; or(d)is disqualified for any other reasons as may be prescribed.(4)Every licence granted under Sub-section (3) shall remain valid for a period of three years from the date of its issue and it may be renewed, from time to time, for a further period of one year on payment of such fee, in such manner and on fulfilment of such conditions as may be prescribed.(5)If the State Government refuse to grant or renew a licence under this section, it shall record the reasons for such refusal in writing and communicate its order to the applicant.(6)Every application made under this Section shall be disposed of by the State Government, within a period of sixty days from the date of receipt of such application.

6B. Power to cancel or suspend a licence.

(1)The State Government may suspend or cancel the licence if, -(a)the licensee has obtained the licence by means of fraud or misrepresentation of facts;(b)the licensee or any servant or anyone acting on his behalf, has violated any of the terms and conditions of licence;(c)the licensee in combination with other licensee wilfully commits any act or abstains from carrying his normal business in the market area, with an intention of obstructing, suspending or stopping the marketing of agricultural produce in the market and in consequence whereof the marketing of any such

agricultural produce has been obstructed, suspended or stopped;(d)the licensee has been adjudicated as an insolvent or is an undischarged insolvent; or(e)the licensee incurs any disqualification, as may be prescribed.(2)Before passing orders under Sub-section (1) the State Government shall intimate to the licensee the grounds on which it is proposed to pass such orders and give him a reasonable opportunity of showing cause against it.(3)The State Government may suspend the licence pending the passing of an order for its cancellation under Sub-section (1).(4)A copy of every order passed under Sub-sections (1) and (3) shall be communicated to the licensee.

Chapter-II-B Contract Farming

6C. Definitions.

- In this chapter, unless the context otherwise requires,(a)"Contract Farming" means farming by a person or a firm, registered under the Indian Partnership Act, 1932, or a company registered under the Companies Act, 1956 or a Co-operative Society registered under the Orissa Co-operative Societies Act, 1962 or a Co-operative registered under the Orissa Self-Help Co-operatives Act, 2001 or a Government Agency called the Contract Farming Producer under a written agreement with another person or body of persons called Contract Farming Sponsor to the effect that produce of such Contract Farming Producer shall be purchased as specified in the agreement, by the Contract Farming Sponsor.(b)"Contract Farming Agreement" means the agreement made for contract farming between the Contract Farming Producer and the Contract Farming Sponsor; and(c)"Contract Farming Producer" means a person, firm, company, co-operative society, co-operative or Government agency as mentioned in Clause (a).

6D. Contract Farming Agreement.

- Contract Farming Agreement shall be governed in the manner laid down hereinafter.(1)Contract Farming Sponsor shall register himself or itself with the Market Committee in such manner and with such fee payable to the Market Committee as may be specified by the State Government.(2)The Contract Farming Sponsor shall get the Contract Farming Agreement recorded with the concerned Market Committee and the Contract Farming Agreement shall be in such form containing such particulars and terms and conditions as may be specified by the State Government.(3)Dispute arising out of the Contract Farming Agreement may be referred to the Director for settlement and the Director shall decide the dispute in a summary manner within thirty days from the date of reference, after giving the parties a reasonable opportunity of being heard in the manner prescribed.(4)The party aggrieved by the decision of the Director under Subsection (3) may prefer an appeal to the Secretary to Government, Co-operation Department within thirty days from the date of the decision and the appeal shall be disposed of within thirty days, after giving the parties a reasonable opportunity of being heard and the decision shall be final.(5)The decision under Sub-section (3) or (4) shall have the force of a decree of a Civil Court and the decretal amount shall be recovered as an arrear of land revenue.(6)The agricultural produce covered under the Contract Farming Agreement may be sold to the Contract Farming Sponsor outside the market yard and in such a case, no market fees shall be leviable.(7)Notwithstanding anything contained in the Contract Farming Agreement, no title, right, ownership or possession shall be transferred or alienated or vested in the Contract Farming Sponsor or his successor or his agent or his assignee, as the case may

be. Chapter-III Incorporation of market committee - Its powers and duties

7. Incorporation of market committee.

- Every Market Committee shall be a body corporate by such name as the State Government may, by notification specify. It shall have perpetual succession and common seal, may sue and be sued on its corporate name and shall be competent to acquire and hold, lease, sell or otherwise transfer any property and to contract and to do all other things necessary for the purposes for which it is established.

8. Appointment of Sub-Committee or Joint Committee.

- A Market Committee may, subject to the provisions of this Act and the rules made thereunder by itself or conjointly and in co-operation with any other Market Committee, appoint one or more of its members to be a Sub-Committee or to be a Joint Committee for the conduct of any work or to report on any matter as it may think fit.

9. Employment of staff.

(1) The Market Committee may employ such officers and employees as may be necessary for the management of the market and may pay such officers and employees such salaries as the Market Committee thinks fit. (2) The Market Committee shall, in the case of any officer or employee of Government whom it employs, make such contributions towards his pension, gratuity and leave allowances as may be required by the conditions of his service to be paid by him or on his behalf. (3) [The Chairman, Vice-Chairman, the Secretary and other officers and servants of the Board and Market Committee shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.] [Inserted vide Act No. 27 of 1984, Section 5.]

10. Execution of contract.

(1) Every contract entered into by a Market Committee shall be in writing and shall be executed on behalf of the Market Committee by its Chairman, and two other members of the Committee. (2) No contract other than a contract executed as provided in Subsection (1) shall be binding on Market Committee.

11. [Levy of fees. [Substituted vide Act No. 27 of 1984, Section 6.]

- It shall be competent for a Market Committee to levy and collect such fees (hereinafter referred to as the market fees) not being less than one rupee from every purchaser for every hundred rupees worth of agricultural produce marketed in the market area in such manner as may be prescribed and at such rate as may be specified in the bye-laws:] [Substituted vide Act No. 27 of 1984, Section 4 (1).] Provided that the rate of fees to be specified in the bye-laws shall not exceed three per cent of the value of agricultural produce sold in the markets within the market area. Provided further that no

such fees shall be levied and collected in the same market area in relation to any-agricultural produce in respect of which fees under this section have already been levied and collected therein. Explanation - For the purpose of this section all notified agricultural produce leaving a market yard shall unless the contrary is proved, be presumed to have been brought within such yard by the person in possession of such produce.

12. [Power of search, seizure and inspection etc. [Substituted vide Act No. 27 of 1984, Section 7.]

(1) The Chairman, Secretary or any other officer or servant of the Market Committee duly authorised by it 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 the- stocks of such agricultural produce or purchase, sale and delivery of such agricultural produce by such person and also any other information relating to payment of market lees by such person. (2) All accounts and registers maintained by any person in the ordinary course of business in respect of any notified agricultural produce and documents relating to stock of such agricultural produce or purchase, sale and delivery of such produce in his possession and the office, establishment, godown, vessels or vehicles of such person shall be open to inspection at all reasonable times to the officers or servants referred to in Sub-section (1) duly authorised by the Market Committee in this behalf. (3) If any officer or servant of the Market Committee authorised under Sub-section (2) has reason to suspect that any person is attempting to evade payment of any market fees due from him under Section 11 or that any person has purchased or sold any agricultural produce in contravention of any of the provisions of the Act or the rules, or the bye-laws in force in the market area, he may, after recording reasons therefor in writing, seize any books of account, registers or documents of such person as may be necessary on issue of proper receipt therefor and shall retain the same only so long as they are necessary for examination thereof or for prosecution. (4) For the purposes of Sub-sections (2) and (3) the officers and servants authorised thereunder shall have powers to enter into and search any place of business, warehouse, office, establishment, godown vessel or vehicle where such officer or servant has reason to believe that such person keeps or for the time being keeps any accounts, registers or documents of his business, or stocks of agricultural produce relating to his business. (5) The provisions of Section 100 of the Code of Criminal Procedure, 1973, (2 of 1974) shall, so far as may be, apply to a search under Sub-section (4). (6) Where any books of account or other documents are seized from any place and there are entries therein making reference to quantity, quotations, rates, receipt OF payment of money or sale or purchase of goods, such books of account 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 the matter, transactions and accounts purported to be therein recorded. (7) At any time where required by the Chairman, Secretary or any other officer or servant duly empowered by the Market Committee in this behalf, the driver or any other person in charge of any vehicle, vessel or other conveyance, which is taken or proposed to be taken out of the market area, shall stop the vehicle, vessel or other conveyance, as the case may be, and keep it stationary so long as may reasonably be necessary, and allow such officer or servant to examine the contents in the vehicle, vessel or other conveyance and inspect all records relating to the notified agricultural produce carried and give name and address of his own and those of the owner of the vehicle, vessel or other

conveyance and of the owner of the notified agricultural produce carried in such vehicle, vessel or other conveyance.(8)The officer or servant of the Market Committee empowered under Sub-section (7) shall have power to seize any notified agricultural produce taken or proposed to be taken out of the market area in any vehicle, vessel or other conveyance, if such officer or servant has reason to believe that any fee or other amount due under this Act in respect of such produce has not been paid and such seizure shall forthwith be reported by the officer or servant aforesaid to a Magistrate having jurisdiction to try the offence under this Act and the provisions of Sections 457, 458 and 459 of the Code of Criminal Procedure, 1973, (2 of 1974) shall, so far as may be, apply in relation to notified agricultural produce seized as aforesaid as they apply in relation to property seized by a Police Officer.(9)The Market Committee may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act or the rules or bye-laws, on admission, by way of composition of an 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, in addition to the fee or other amount so recoverable, a sum of money not exceeding five hundred rupees or double the amount of such fee or other amount, whichever is greater; and(b)in other cases, a sum of money not exceeding five hundred rupees.(10)On the composition of any offence under Sub-section (9), no proceedings shall be taken or continued against the person concerned in respect of such offence and if any proceedings in respect of that offence have already been instituted against him In any Court, the composition shall have the effect of his acquittal.]

13. Decision of certain disputes under the Orissa Weights and Measures Act, 1943.

(1)Notwithstanding anything contained in the Orissa Weights and Measures Act (VII of 1943), if any difference arises between an Inspector appointed under Section 15 of the said Act and any person interested as to the meaning or construction of any rule or as to the method of verifying, auditing or stamping any weight or measure or measuring instrument in any market area, such difference may at the request of the party interested or by the Inspector of his own accord, be referred to the Market Committee and the decision of the Market Committee shall, subject to the provisions of Sub-section (2) be final and shall be deemed to have been given under Section 22 of the Orissa Weights and Measures Act, VII of 1943.(2)An appeal shall lie within the time prescribed from the decision under Sub-section (1) to the State Government or such officer as the State Government may appoint in this behalf. The decision of the State Government or such officer shall be final.

14. Power to borrow.

(1)A Market Committee may, with the previous sanction of the State Government, raise money required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.(2)[The Market Committee may, for the purpose of meeting the initial expenditure on land, buildings and equipment required for establishing a market, obtain a loan from the State Government or the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or any Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (33 of 1959) or a Bank specified in Column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act,

1970 (5 of 1970) or and corporate body including a company as defined in Section 3 of the Companies Act, 1956 (1 of 1956) in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government or the State Government or partly by the Central Government and partly by the State Government.] [Substituted vide Act No. 27 of 1984, Section 8.]

15. Market Committee Fund.

(1) All moneys received by a Market Committee shall be paid into a fund to be called "The Market Committee Fund" and all expenditure incurred by a Market Committee under or for the purposes of this Act, shall be defrayed out of the said fund. Any surplus remaining with the Market Committee after such expenditure has been met shall be invested as may be prescribed in this behalf. (2) Every Market Committee shall pay to the State Government the cost of any additional or special staff employed by the State Government in consultation with such Market Committee for giving effect to the provisions of this Act, in the market area for which such Market Committee is established. (3) The State Government shall determine the cost of such additional or special staff and shall, when their staff is employed for the purposes of more than one Market Committees, apportion such cost among the Committee concerned in such manner as it thinks fit. The decision of the State Government determining the amount payable by any Market Committee shall be final.

16. Expenditure from the Market Committee Fund.

- Subject to the provision of Section 15, the Market Committee Fund shall be expended for the following purposes, namely : (1) The acquisition of site for the market; (2) The maintenance and improvement of the market; (3) The construction and repair of building necessary for the purposes of the Act and for the health, convenience and safety of the persons using the market; (4) The provision and maintenance of standard weights and measures; (5) The pay, pension, leave allowance, gratuity, compensation for injury resulting from accident, compassionate allowance and contribution towards leave allowance, pension or provident fund of the officer, and staff employed by it; (6) The expenses of and incidental to elections; (7) The payment of interest on the loan that may be raised for the purposes of the market and the provisions of sinking fund in, respect of such loan; (8) The collection and dissemination of information regarding matter relating to crop, statistics and marketing in respect of the agricultural produce notified under Section 4; (9) Payment of the cost referred to in Sub-sections (2) and (3) of Section 14; (10) Propaganda in favour of agricultural improvement ; and (11) Such other expenses that may be necessary for carrying out the purposes of the Act.

17. Acquisition of land.

- When any land is required for the purpose of this Act, the State Government may, on the request of the Market Committee proceed to acquire it under the provisions of the Land Acquisition Act, 1 of 1894, or any other law for the time being in force, and on payment by the Market Committee, of the compensation awarded under the said Act or other law, as the case may be, and of all other charges incurred by the State Government on account of such acquisition, the land shall vest in the Market Committee.

Chapter-IV Trade allowances

18. No trade allowance permissible except as prescribed.

- No person shall make or recover any trade allowance, other than an allowance, prescribed by rules or bye-laws made under this Act, in any market area in any transaction in respect of the agricultural produce concerned and no Civil Court shall, in any suit or proceeding arising out of any such transaction have regard to or recognise any trade allowance not so prescribed. Explanation. - Every deduction other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard when the purchase is made by reference to a known standard on account of difference between the actual weight of the container and the standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purpose of this section. [Chapter-IV-A [Inserted vide Act No. 27 of 1984, Section 9.] Constitution and powers of the Board

18A. Establishment of the Board.

(1) For the purpose of exercising superintendence and control over Market Committees and for exercising such other powers and performing such function as are conferred or entrusted under this Act, the State Government shall, by notification in the official Gazette, establish a Board called, the Orissa State Agricultural Marketing Board. (2) The Board shall consist of the following members, namely : (i) Minister-in-charge of Co-operation Ex officio Chairman; (ii) the Director of Marketing-Ex-officio Member Secretary; (iii) the Secretary, Agriculture and Co-operation Department - Member; (iv) the Secretary, Revenue Department - Member; (v) three non-official members to be nominated by the Government from among the members of Market Committees, by rotation; (vi) two members of the Orissa Legislative Assembly to be nominated by the State Government; (vii) two non-official members to be nominated by the State Government from among the leading Co-operators; (viii) for official members to be nominated by the State Government. (3) The term of office of the members of the Board shall be four years. (4) The Board shall be a body corporate by the name of the Orissa State Agricultural Marketing Board having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and subject to the prescribed conditions and restrictions to lease, sell or otherwise transfer any property and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, and the rules and bye laws made thereunder, be competent to contract and do all other things as may be necessary for the purpose for which it is established.

18B. Powers and functions/of the Board.

(1) The Board shall, subject to the provisions of this Act, exercise the following powers, namely : (i) superintendence and control over the working and other affairs of the Market Committees including programmes under taken by such committees for the development of markets and market areas; (ii) giving direction to Market Committees in general or any Market Committee in particular with a view to ensuring efficiency thereof; (iii) approval of proposals for selection of sites by a Market Committee for development of market. (2) Without prejudice to the generality of the foregoing provisions it shall be the duty of the Board- (i) to supervise and guide the Market Committees in the preparation of plan and estimates of construction programme undertaken by the Market

Committee;(ii)to execute all works chargeable to Marketing Development Fund;(iii)to maintain accounts in such forms as may be prescribed and get the same audited in such manner as may be paid down in the regulations of the Board;(iv)to publish annually at the close of the year its progress report, balance-sheet and the statement of assets and liabilities;(v)to make necessary arrangements for propaganda and publicity on matters related to marketing of an agricultural produce;(vi)to provide facilities for the training of officers and servants of Market Committees;(vii)to prepare and adopt budget for the ensuing year;(viii)to grant subventions to Market Committees for the purpose of this Act on such terms and conditions as the Board may determine;(ix)to do such other things as may be of general interest to Market committees or considered necessary for the efficient functioning of the Board.

18C. Power of the Board to make regulations.

(1)The Board may, with the previous approval of the State Government, make regulations not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Board.(2)In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely : (a)the 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 and the number of persons necessary to form a quorum thereof;(b)the powers and duties of the officers and servants of the Board;(c)the salaries and allowances and other conditions of service of officers and servants of the Board ;(d)the management of the property of the Board;(e)the execution of contracts and assurances of property on behalf of the Board;(f)the maintenance of accounts and preparation of balance-sheet of the Board;(g)the procedure for carrying out the functions of the Board under the Act; and(h)any other matter for which provision is to be or may be made in the regulations.

18D. Power of the Board to borrow.

- The Board, subject to the provisions of this Act, may, from time to time, with the previous sanction of the State Government and subject to such conditions as the State Government may by general or special order determine, borrow any sum required for the purposes of this Act from the State Government or from any financial institution whether by issue of bond or stock.

18E. Constitution of the Marketing Development Fund.

- All moneys received by or on behalf of the Board shall constitute a fund called the Marketing Development Fund.

18F. Proceedings not invalidated by reasons of vacancies etc.

- No act done or proceedings taken under this Act by the Board or a sub-committee appointed by the Board shall be invalidated merely on the ground of -(a)any vacancy or defect in the constitution of the Board or any Subcommittee; or(b)any defect or irregularity in the appointment of any person

acting as a member thereof ; or(c)any defect or irregularity in such act or proceedings not affecting the substance.

18G. Contribution to be paid to the Board.

- Every Market Committee shall, out of its funds, pay to the Board as contribution such percentage of its income derived from licence fees and market fees not less than five per cent of such income as may be prescribed to meet the expenses of the establishment of the Board and also those incurred in the interest of the Market Committee.]Chapter-V Miscellaneous

19. Liability of member of Market Committee to removal from office.

(1)The State Government may, if they think fit, on the recommendation of a Market Committee supported by two-thirds of its total number of members, remove any member of such Committee elected or nominated under this Act if such member has, in the opinion of the State Government, been guilty of neglect or misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member :Provided that no resolution recommending the removal of any member shall be passed by the Market Committee unless the member to whom it relates, has been given a reasonable opportunity of showing cause why such recommendation should not be made.(2)The decision of the State Government under Sub-section (1) shall be final.

20. Supersession of Market Committee.

(1)If in the opinion of the State Government a Market Committee is not competent to perform or persistently makes default in performing the duties imposed upon it by or under this Act or abuses its powers, the State Government may, by notification supersede such Market Committee :Provided that before issuing a notification under this Sub-section, the State Government shall give a reasonable opportunity to the Market Committee for showing cause why it should not be superseded and shall consider the explanation and objection, if any, of the Market Committee.(2)Upon the publication of notification under Sub-section (1) superseding a Market Committee the following consequences shall ensue:(i)All the members as well as the Chairman of the Market Committee shall, as from the date of such publication, be deemed to have vacated their offices ;(ii)The State Government may, at its discretion by order, either constitute a new Market Committee under Section 6 or make such arrangements for the carrying out of the functions of the Market Committee, as it may think fit ; and(iii)All the assets vesting in the Market Committee, shall, subject to all its liabilities vest in the State Government for purposes of the Act.

21. [Penalty. [Substituted vide Act No. 27 of 1984, Section 10.]

(1)Whoever-(a)in contravention of Section 4 establishes a market or uses any place in the market area for marketing of any agricultural produce or operates as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity without a licence

shall, on conviction be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both and in the case of continuing contravention, with a further fine which may in the case of contravention of Sub-section (3) of the said section extend to one hundred rupees and in any other case to fifty rupees per day during which the contravention is continued after the first conviction;(b)in contravention of Section 11 evades or tries to evade payment of market fees of cess or obstructs any officer or servant of a Market Committee in the exercise of his power of inspection and seizure under Section 12 shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both; and(c)makes or recovers any trade allowance other than an allowance prescribed by rules or bye-laws made under this Act shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.(2)Whoever contravenes any provision of this Act, or the rules or bye-laws made thereunder, shall, if no other penalty is provided for the offence, on conviction, be punishable with a fine which may extend to two hundred rupees.]

22. Trial of offences.

- [(1) No offence under this Act or any rule or bye-laws made thereunder, shall be tried by a Court other than, that of a Judicial Magistrate of the list class or that of a Judicial Magistrate of the second class specially empowered in this behalf.] [Substituted vide Act No. 27 of 1975, Orissa Gazette Extraordinary/14.7.1975.](2)Prosecution under this Act or any rule or bye-laws made thereunder, may be instituted by any person duly authorised in writing' by the Market Committee, in this behalf.

23. Bar of suit without notice.

- No suit shall be instituted against any Market Committee or any member, officer or employee thereof, any person acting under the direction of any such Market Committee, member, officer or employee for anything done or purporting to be done, in good faith as such member, officer or employee under this Act or any rule or bye-law made thereunder until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode or the intending plaintiff and the relief which he claims, has been in the case of Market Committee, delivered or left at its office, and in the case of any such member, officer, employee or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left.(2)Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.(3)Nothing in this section shall be deemed to apply to any suit instituted under Section 54 of the Specific Relief Act, 1 of 1877.

24. [Recovery of dues as arrears of land revenue. [Substituted vide Act No. 27 of 1984, Section 11.]

- Every sum due to a Market Committee or the Board on account of any charges, costs, expenses, fees, rent or any other account under the provisions of this Act or the rules or bye-laws made thereunder and., every sum due from a Market Committee or the Board to the State Government

shall be recoverable as arrears of land revenue].

25. Power of State Government to call for proceedings of Market Committee and to pass orders thereon.

- The State Government may at any time call for and examine the proceedings of any Market Committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the Committee. If from the record of such proceedings it appears to the State Government that any such decision or order should be modified, annulled or reversed, the State Government may pass such orders thereon as they deem fit.

26. Amendment of Schedule.

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

27. Power to make rules.

(1)The State Government may, either generally or specially for any market area or market areas, make rules for the purposes of giving effect to the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters : (a)The election and nomination of member of the Market Committee, the manner of election, the preparation and revision of lists of voters from time to time and the payment of all expenditure in connection with or incidental to such election; (b)The powers to be exercised and the duties to be performed by the Market Committee and its Chairman; (c)The term of office of the Chairman and Vice-Chairman of the Market Committee; (d)The filling of casual vacancies in the office of the Chairman, Vice-Chairman or Member of the Market Committee; (e)The management of the market, maximum fees which may be levied by the Market Committee in respect of agricultural produce in pursuance of Section 11; (f)The issue of licence to brokers, weighmen measurers, surveyors, warehousemen [* * *] [Deleted vide Act No. 27 of 1984, Section 12.] and other persons operating in the market. The form in which, and the conditions subject to which such licence shall be issued or renewed and the fees to be charged therefor and the cancellation of such licence; (g)The procedure, manner and the authority to which appeal shall lie against orders passed by the Market Committee under Subsection (1) of Section 12; (h)The kind and description of the weights and measures and the weighing and measuring instruments which alone shall be used in transactions in agricultural produce in a market area; (i)The periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area; (j)The manner of control and supervision to be exercised by the Market Committee over Inspectors appointed under Section 15 of the Orissa Weights and Measures Act, VII of 1943; (k)The time within which an appeal shall lie to the State Government or the officer appointed by it in that behalf under Sub-section (2) of Section 13; (l)The trade allowance which may be made or received by any person in any transaction in the agricultural produce in a market; (m)The provision of facilities for the settlement of any dispute between a buyer and seller of agricultural produce or their agents including disputes regarding the

quality or weight of the article, the allowance for wrapping, containers, dirt or impurities or deductions from any cause;(n)The prohibition of brokers from acting in any particular transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller;(o)The provision of accommodation for storing any agricultural produce brought into the market;(p)The preparation of plans and estimates for works proposed to be constructed partly or, wholly at the expense of the Market Committee, and the grant of sanction to such plans and estimates;(q)The form in which the account of a Market Committee shall be kept, the audit and publication of such accounts, the charges, if any, to be made for such audit and the inspection of audit memoranda of the accounts and supply of copies of such memoranda;(r)The preparation and submission for sanction of the annual budget and the report and returns to be furnished by a Market Committee;(s)The investment and disposal of the surplus funds of a Market Committee ;(t)The regulation of advances, if any, given to agriculturists by brokers, commission agents or traders;(u)The prevention of adulteration of agricultural produce;(v)The grading and standardisation of the agricultural produce;(w)The keeping of a list of prices of agricultural produce in respect of which the market is established;(x)The manner in which auction of agricultural produce shall be conducted and bids made and accepted in any market;(y)The recovery and disposal of fees leviable by or under the Act ; and(z)The manner of publication of notification under the provision of this Act and all matters relating to such publication;[(z-1) Any matter which has to be or may be prescribed under the Act.] [Inserted vide Act No. 27 of 1984, Section 12.](3)Any rules made under this Act may provide that any contravention thereof or of any of the conditions of any licence issued or renewed thereunder shall, on conviction, be punishable with fine which may extend to two hundred rupees.(4)The power to make rules conferred by this section is subject to the conditions of the rules being made after previous publication.(5)All rules made under this section shall be published in the Gazette and shall, unless some later date is appointed come into force on the date of such publication.(6)All rules made under this section shall be laid as soon as possible after they are made before the Orissa Legislative Assembly for a total period of fourteen days, which may comprise in one session or in two or more sessions and shall be subject to such modifications as the said Assembly may make during the said period.

28. [Power to make bye-laws. [Substituted vide Act No. 27 of 1984, Section 13.]

(1)Subject to any rules and regulations made under this Act, and with the previous sanction of the Director or any other officer specially empowered in this behalf by the State Government a Market Committee may, in respect of the market crop for which it is constituted or any market established therein, make bye-laws for the regulation of the business (including meeting, quorum and procedure) of the Market Committee, and the conditions of trading in the market area including the rates and manner of collection or refund of market fees or any other fees levied under this Act.(2)Where a Market Committee fails to make bye laws under this section within six months from the date on which the Orissa Agricultural Produce Markets (Amendment) Act, 1984 (Orissa Act 27 of 1984) comes into force or the date of its constitution, whichever is later, the Director may make such bye-laws as he may think fit and bye-laws so made shall remain in operation in relation to that Market Committee, until the Market Committee makes its bye-laws duly approved by the Director.(3)Notwithstanding anything contained in this Act or the rules, regulations or bye-laws

made thereunder, if the Director considers that an amendment, alteration or rescission of any provision of the bye-laws or adoption of any new bye-laws is necessary or desirable in the interest of a Market Committee he may, by an order in writing to be served on the Market Committee, direct to make such amendment, alteration or rescission of such provision or provisions or adoption of any new bye-laws within such time as may be specified in such order.(4)If the Market Committee fails to make the amendment, alteration or rescission or to adopt the new bye-laws within the time specified by the Director in his order under Sub-section (3), the Director may, after giving the Market Committee an opportunity of being heard, register such amendment, alteration or rescission of the bye-laws or the adoption of such new bye-laws, as the case may be, and issue a certified copy thereof to the Market Committee.(5)The Market Committee may, within thirty days from the date of issue of the certified copy referred to in Sub-section (4), appeal against such order to the State Government.(6)Where an appeal is presented within the period specified in Subsection (5), the amendment, alteration or rescission of the bye-laws or the adoption of new bye-laws shall not come into force till the order is confirmed by the State Government.(7)A certified copy of the amendment, alteration, rescission or the new bye-laws registered by the Director under Sub-section (4) shall, subject to the result of appeal, if any, under Sub-section (6), be conclusive evidence that the same has been duly registered and such amendment, alteration, rescission or new bye-laws shall be deemed to have been made by the Market Committee.(8)Any bye-laws made under this Act may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to one hundred rupees.]

29. Delegation of powers by the State Government.

- The State Government may delegate to any of its officers any of the powers conferred on it by or under this Act.

30. Repeal.

- The Madras Commercial Crops Markets Act, XX of 1933, is hereby repealed.

Schedule

[See Section 2 (1) (i)]I. Fibres -(1) Cotton (ginned and unginned); (2) Sunhemp (3) Jute.II. Cereals-(1) Wheat; (2) Paddy (husked and unhusked) (3) Jowar; (4) Baira; (5) Maize; (6) Ragi (Mandia); (7) Suan;III. Pulses-(1) Harad (Red gram); (2) Bin (Black gram); (3) Mung (Green gram); (4) Kolthi (Horse gram); (5) Buta (Bengal gram) ; (6) Chana; (7) Khesari; (8) Jhudang; (9) Kandula (Hill gram).IV. Oilseeds-(1) Groundnut (shelled and unshelled); (2) Linseed; (3) Sesamum; (4) Niger (Tila); (5) Mustard; (6) Coconut; (7) Cotton seed; (8) Castor seed.V. Narcotics-Tobacco.VI. Gur and Sugarcane.VII. Fruits-(1) Mango; (2) Orange; (3) Lemon; (4) Banana (5) Sapeta; (6) Melon; (7) Jack fruits; (8) Papaya; (9) Tamarind.VIII. Vegetables-(1) Potato; (2) Onion; (3) Tomato; (4) Saru (5) Leafy and fresh vegetables; (6) Sweet potatoes.IX. Animal Husbandry Products-(1) Eggs ; (2) Poultry; (3) Cattle (4) Sheep; (5) Goat.X. Fish.XI. Condiments, spices and others-(1) Turmeric; (2) Ginger (3) Garlic; (4) Corriander; (5) Chillies (6) Betel leaves; (7) Cashewnuts.XII. Gross and

fodder.