

The Assam Agricultural Produce Market Act, 1972

ASSAM

India

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Act 23 of 1974

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The Assam Agricultural Produce Market Act, 1972 Assam Act No. 23 of 1974 Last Updated 10th February, 2020 [Received the assent of the President on the 3rd September, 1974]. An Act to provide for better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the State of Assam and for matters connected therewith. Preamble. - Whereas it is expedient to provide for better regulation of buying and selling of agricultural produce in the State of Assam and establishment of regulated markets for agricultural produce; And whereas the previous sanction of the President of India under the proviso to Article 304 (b) of the Constitution of India has been obtained for the introduction of the Bill in the Legislative Assembly; It is hereby enacted in the Twenty-third year of the Republic of India as follows :

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Assam Agricultural Produce Market Act, 1972. (2) It shall extend to such area or areas of the State of Assam as may be notified by the State Government from time to time in the official Gazette : (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definitions.

(1) In this Act, unless there is anything repugnant in the subject or context- (i) "Agricultural produce" means and includes any produce whether processed or non-processed of agriculture, horticulture, animal husbandry, pisciculture, sericulture and forest as specified in the Schedule; (ii) "Agriculturist" means a person who ordinarily by himself or who by his tenants or hired labour or otherwise is engaged in the production of agricultural produce but does not include a dealer or broker in

agricultural produce although such a dealer or broker may also be engaged in the production or growth of agricultural produce;(iii)"Gaon Panchayat" means a Panchayat established under the provisions of the Assam Panchayat Act, 1994 (Assam Act No. XVIII of 1994);(iv)"Board" means the State Agricultural Marketing Board constituted under Section 3;(v)"Broker" means an agent, whose ordinary course of business is to negotiate and make contracts for the purchase or sale of agricultural produce on behalf of his principal and who is remunerated by commission; but does not include the servant of such principal whether engaged in negotiating or making such contracts;(vi)"Bye-laws" means bye-laws made under Section 50;(vii)"Certificate Officer" means the officer so defined in the Bengal Public Demands Recovery Act, 1913 (Bengal Act 11 of 1913);(viii)"Commission Agent" means a person who on behalf of another person and in consideration of commission makes or offers to make purchase or sale of agricultural produce or does or offers to do anything necessary for completing and carrying out such purchase or sale;(ix)"Co-operative Bank" means the Assam Co-operative Apex Bank Ltd., registered under the Assam Co-operative Societies Registration Act, 1949 (Act 1 of 1950) or any other Co-operative Bank formed for the State of Assam as an Apex Bank and includes a District Central Co-operative Bank;(x)"Co-operative Marketing Society" means a Co-operative Society registered under the Assam Co-operative Societies Act, 1949 which has as its principal object the promotion of the sale of agricultural produce grown, reared or produced by its members or which is declared as such or equivalent thereto by the State Government;(xi)"Director" means the Officer appointed by the State Government to discharge all or any of the functions of the Director under this Act;(xii)"District Council" means a District Council, constituted under paragraph 2 of the Sixth Schedule to the Constitution of India;(xiii)["Gaon Panchayat" omitted;] [Sic. Definition of 'Gaon Panchayat' seems to be duplication here as it is also given at Clause (iii) with a slight difference. This was however omitted by Assam Act 2001 effective from 30.01.2001.](xiv)"Licensee" means a person or association, firm or company granted a licence under this Act;(xv)"Local authority" means a Corporation, a Municipal Board or a Town Committee, a Zilla Parishad or a Gaon Panchayat;(xvi)"Market" means a regulated market established under this Act for the market area and includes a market proper, a principal market-yard and a sub-market-yard or yards, if any;(xvii)"Market area" means any area declared to be a market area under Section 5;(xviii)"Market Committee" means a Committee established under Section 7;(xix)"Market proper" means any area including, all lands with the buildings and structures thereon within such distance of the principal or sub-market-yard as the State Government may, by a notification in the official Gazette, declare it to be a market proper;(xx)"Market year" means the financial year adopted and followed by the State Government;(xxi)"Measurer" means a person whose business is to measure consignment of agricultural produce for sale;(xxii)"Zilla Parishad" means a Zilla Parishad established under sub-section (1) of Section 64 of the Assam Panchayati Act, 1994 (Assam Act No. XVIII of 1994);(xxiii)"Notification" means a notification published in the official Gazette;(xxiv)"Specified Agricultural" means any or all the terms included in the Schedule to this Act";(xxv)"Prescribed" means prescribed by rules made under this Act;(xxvi)"Principal market-yard" and "sub-market yard" means an enclosure, building or locality declared to be a principal market yard and sub-market yard respectively in the official Gazette by the State Government;(xxvii)"Progressive producer" means a producer who in the opinion of the Director of Agriculture, Assam carries on agricultural production on improved method;(xxviii)"Proprietor" means the owner of a market and includes any person who is in actual charge and/or in direct control of the market whether such

person is the owner of the market or is the lessee thereof or is acting on behalf of such owner or lessee;(xxix)"Register" means the Registrar of the Co-operative Societies Assam;(xxx)"Retail sale" means a sale of any agricultural produce not exceeding such quantity as may, by by-laws or rules, be fixed in respect of such agricultural produce;(xxxi)"Rules" means rules made under this Act;(xxxii)"State Government" means the State Government of Assam;(xxxiii)"Schedule" means a Schedule to this Act;(xxxiv)"Secretary" means the Chief Executive of the Market Committee and includes officiating, acting Deputy and Assistant Secretary;-(xxxv)"Surveyor" means a person whose business is to survey a consignment of agricultural produce for sale in regard to quantity, grade, refraction, adulteration and such other purposes;(xxxvi)"Trade" means any kind of transaction of sale and purchase or any kind of remuneration of sale and purchase of any agricultural produce;(xxxvii)"Trader" means a person ordinarily engaged in the business of buying and selling of agricultural produce as principal or a duly authorised agent of one or more principals and includes a person ordinarily engaged in the business of processing of agricultural produce;(xxxviii)"Warehousing Corporation" means the State Warehousing Corporation established in Assam under Section 18 of the Warehousing Corporation Act, 1972;(xxxix)"Weighman" means a person whose business is to weigh a consignment of agricultural produce for sale.(xl)"Marketing Board Fund" means the Assam State Agricultural Marketing Board Fund established under Section 3B of this Act.(2)If a question arises whether a person is or is not an agriculturist or trader for the purpose of this Act, it will be decided in the manner prescribed and the decision of the State Government thereon shall be final.Explanation. - For the purpose of the Act, the word "person" includes any firm, joint family, association or body of individuals whether incorporated or not.

Chapter II

Constitution of the State Agricultural Marketing Board, Market and Market Committee

3. Constitution of State Agricultural Marketing Board.

(1)The State Government may, for exercising the powers conferred on and duties assigned to the Board by or under this Act, establish and constitute a State Agricultural Marketing Board consisting of Chairman and 17 other members to be nominated by the State Government as follows :(a)One Chairman;(b)Officials of the Government of Assam-(i)Director of Agriculture, Assam;(ii)Director of Veterinary and Animal Husbandry, Assam;(iii)Director of Panchayat, Assam;(iv)Director of Municipal Administration, Assam;(v)Registrar of Co-operative Societies, Assam;(vi)Secretary, Agriculture Department, Assam;(vii)Representative of the Marketing Adviser.(c)Non-officials -(i)one agriculturist member of the Market Committees to be nominated by the Chairman of the Board;(ii)one representative from Agricultural Farming Corporations formed under the Assam Agricultural Farming Corporation Act 1973;(iii)two progressive producers to be nominated by the Chairman of the Board;(iv)one licensee to be nominated by the Chairman of the Board;(v)one from amongst the members of the Co-operative Marketing Societies represented in the Market Committees, to be nominated by the Chairman of the Board.(vi)One trader of Agricultural produce of a Market Committee to be nominated by the Chairman of the Board."(vii)3 (three) Nos. of Chairman from the Market Committee to be nominated by the Chairman of the Board."(2)The State

Government shall nominate a senior officer of the State Government having sufficient experience in the affairs of the State, to be the Chief Executive Officer of the Board who shall be selected by a Committee to be constituted by the State Government for this purpose. The Chief Executive Officer shall be the ex-officio Member-Secretary of the Board who shall enjoy the status of a Joint Secretary to the Government of Assam and shall hold office for such term and under such terms and conditions as may be fixed by the State Government from time to time."(3)The Board shall be a body corporate by the name of the State Agricultural Marketing Board having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire and hold property and shall by the said name sue and be sued "and shall competent to acquire and hold lease, or otherwise transfer any property and to enter into any contract and to do all other things necessary for the purpose for which it is established."(3A)The Board 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:Provided that the conditions subject to which such money or loan shall be raised or obtained and time within which such money or loan shall be repayable shall be subject to the previous sanction of the State Government.(4)The term of the office of the Board shall be three years from the date of its first meeting or till its reconstitution, whichever is earlier :Provided that any non-official member nominated under clause (c) of sub-section (1) of this section shall cease to be a member of the Board from the date he ceases to be a member of a Market Committee, representative of Agricultural Farming Corporation, or a licensee or a member of the Co-operative society represented in the Market Committee.(5)No person shall be eligible to become a Chairman or a member of the Board who-(a)does not ordinarily reside within the State of Assam;(b)is below twenty-one years of age;(c)has been removed under Section 30 of this Act;(d)is of unsound mind; or(e)has been declared as insolvent or sentenced by a criminal Court whether within or outside the State of Assam for an offence involving moral turpitude :Provided that the disqualification under Clause 5 (c) 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 expired:Provided further that no person shall be nominated as Chairman of the Board consecutively for more than two terms.(6)A non-official member of the Board may resign from membership by tendering his resignation to the State Government through the Chairman of the Board and the Chairman of the Board may resign by tendering his resignation to the State Government and such resignation shall be effective from the date of the acceptance by the State Government.(7)The State Government may remove the Chairman or any member of the board who has become subject to any of the Disqualifications specified in sub-section (5) :Provided that the before removing the Chairman or a member the reasons for the proposed action shall be conveyed to him and his reply invited within a specified period and duly considered.(7A)In the event of the removal of the Chairman by the State Government under sub-section (7) of Section 3 and also in the event of resignation by the Chairman under sub-section (6) of Section 3, the State Government shall nominate one amongst the members of the Board to preside over the meetings of the Board till a regular Chairman is nominated by the State Government.(8)In the vacancy caused by cessation of office of any member under proviso to sub-clause (4) or by resignation or removal of the Chairman or member under sub-sections (6) and (7) respectively of this section the State Government may nominate another in the manner provided in clause 3 (1) (a) or 3 (1) (c) as the case may be and such person shall remain in office for the remaining period of the term of his predecessor.(9)The State Government shall exercise superintendence and control over the Board and its employees 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 supersede the Board and, till such time as a new Board is constituted, shall make such arrangements for the exercise of the functions of the Board as it may think fit: Provided that the new Board shall be constituted within six months from the date of its supersession. (10) The Board shall exercise superintendence and control over the Market Committees in the manner prescribed. (11) The State Government or the Chairman or the Secretary of the Board, or any other employee of the Board authorised in this behalf by the Board, may call for any information for return relating to notified agricultural produce from a Market Committee or any other functionaries under or in relation to such Committees and shall have the power to inspect the records of a Market Committee or such functionaries, as the case may be. (12) (a) Subject to the provisions of this Act, and the rules and bye-laws made thereunder, the Board may employ such persons for the performance of the functions of the Board under this Act, and may give them such remuneration, as it may think fit, and may suspend, remove, dismiss or otherwise punish any person so employed. Provided that no new post in any category shall be created by the Board without obtaining prior approval of the State Government and the numbers of existing posts category-wise already created by the Board since its inception and before coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000, shall be submitted by the Board for obtaining ex-post-facto concurrence of the State Government in this regard within one months from the date of coming into force of the Assam Agricultural Produce Market [Amendment] Act, 2000 and no person shall be employed by the Board in any capacity and in any manner whether on fixed pay or on adhoc basis or otherwise if the creation of such post has not been concurred by the State Government as provided under this section : Provided further that the Board may, with the approval of the State Government and without any prejudice to the rule making power of the State Government under Section 49 of the Act, make bye-laws under sub-section (14) of Section 3 regulating the employment and conditions of service in respect of any or all categories of officers and employees of the Market Committees and such bye-laws shall, as nearly as may be, consistent with the corresponding rules in respect of the Officers and employees of the corresponding grade of the State Government. Any amendment to such bye-laws once framed shall required approbation of at least three-fourth of the total number of members of the Board in the meeting before approval of the Government; (b) The Board may constitute pool of Officers and other staff common to all market Committees and the Board as it may deem fit. (13) Subject to rule made under this Act, an estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared and passed by the Board and submitted every year for sanction of the State Government a not later than the prescribed date. 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 it shall be presumed to have been sanctioned. (14) Subject to rules made under this Act, the Board may, with the approval of the State Government frame bye-laws for- (a) regulating the transaction of business at its meeting; (b) the assignment of duties and powers of the Board to its Chairman, Secretary or persons employed by it; and (c) regulating the employment and conditions of service in respect of any or all of the categories of officers and employees of the Board and the Market Committees, (d) such other matters as may be prescribed. (15) Four member shall constitute a quorum at a meeting of the Board : Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at such adjourned meeting. (16) All questions before a meeting of the Board shall be determined by a majority or votes

of the members present in the voting and, in case of equality of votes, the Chairman may exercise a casting vote.(17)The State Government may delegate, by notification in the official Gazette any of the powers conferred on it by or under the Act, to any of its officers or to the Board or to the Chairman or its Secretary.(18)The headquarters of the Board shall be located at a place to be determined by the State Government.(19)No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

3A. Power and Functions of the Board.

(1)The Board shall subject to the provisions of this Act and without prejudice to the provisions of Section 3(10), perform the following functions and do such things as may be necessary or expedient for carrying out these functions, namely-(i)Co-ordination of the working of the Market Committees and other affairs thereof including programmes undertaken by such Market Committees for the development of markets and market areas;(ii)Undertake the State level planning of the development of Agricultural produce and Markets;(iii)Administer the Marketing Board Fund;(iv)Giving direction to Market Committees in general or to any Market Committees in particular with a view to any Market Committees in particular with a view to ensure improvement thereof;(v)Any other functions specifically entrusted to the Board under this Act;(vi)Any other functions that may be entrusted to the Board by the State Government under this Act.(2)Without prejudice to the generality of the foregoing provisions of the functions of the Board shall be-(i)to approve proposals for selection of new site by the Market Committees for establishment of Principal market yard or sub-market yard;(ii)to approve proposal for constructing infrastructure facilities in the Market area;(iii)to supervise and guide the Market Committees in the preparation of plans and estimates of construction programme undertaken by the Market Committee;(iv)to execute all works chargeable to the Board's fund;(v)to maintain accounts in such forms as may be formulated and get the same audited;(vi)to set up separate Marketing Extension Cell in the Board for transfer of marketing technology and extension services and also to make necessary arrangement by the Board for propaganda and publicity on matters related to regulated marketing of an Agricultural Produce;(vii)to prepare and adopt annual budget for the ensuing year;(viii)to do such other lawful things as may be considered necessary for carrying out the provisions of this Act.

3B. Assam State Agricultural Marketing Board Fund.

- All moneys received by or on behalf of the Board shall be credited to a fund called "The Assam State Agricultural Marketing Board Fund." The existing Fund of the Board before coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000, shall be credited to the Assam State Agricultural Marketing Board Fund established under this section, within one month from the date of coming into force of the Assam Agricultural Produce Market (Amendment) Act, 2000.

3C. Payments incurred by the Board.

- All payment incurred by the Board shall be defrayed out of the Marketing Board Fund. The Chief Executive Officer of the Board shall be the drawing and disbursing officer subject to this Act and the bye-laws framed to that effect.

3D. Contribution towards the Board.

- Every Market Committee shall pay to the Board 50% of its annual gross income derived from license fee and cess as contribution to meet the expenses of establishment of the Board and execution of works as may be directed by the Government from time to time for carrying out the purposes of this Act and for execution of other functions assigned to the Board under this Act including the maintenance of pool of officers common to Board and Market Committee :Provided that 50% of the amount of the amount collected by way of contribution from the Market Committees by the Board every year shall be transferred from the Marketing Board Fund to a separate account to be known as Agricultural Development Fund. The Chief Executive Officer shall incur expenditure after approval from the Board from and out of that fund on such schemes or items as may be prepared for the development of Agricultural Produce and Market subject to the approval of such schemes or items by a Committee consisting of the following-

- (a) Chairman of the Board,
- (b) Secretary to the Government of Assam, Agricultural Department, -Member
- (c) Director of Agricultural, Assam, -Member
- (d) Chief Engineer, Agricultural, Assam -Member
- (e) Chief Executive Officer of the Board -Member

Provided further that the Board may appropriate any amount from and out of the Agricultural Development Fund for meeting any other expenses authorised under this section so as- to meet any exigency without effecting the on going Schemes and items already approved by the Committee.

3E. Utilisation of Marketing Board Fund.

(1)The Marketing Board Fund shall be utilised by the Board for discharge of functions entrusted to the Board under this Act.(2)Without Prejudice to the generality of this provision to Marketing Board Fund may be utilised for the following purposes, namely-(i)payment of administrative expenditure of the Board;(ii)payment of travelling and other allowance to the Chairman and Members of the Board;(iii)payment of legal expenses incurred by the Board;(iv)granting aid to financially weak Market Committees in the form of loan or grant for development purposes;(v)training of the officers and staff of the Market Committees and the Board;(vi)for any purpose as may be deemed necessary by the Board for carrying out the purposes of this Act;(vii)for any purpose as may be directed by the State Government for carrying out the purposes of this Act.

3F. Audit of Accounts of the Board.

(1)The Accounts of the Board shall be audited every year by the Director of Audit (Local Fund), Assam or in whatever name he may be called or any officer authorised by him. The Board shall be deemed to be a Local Authority for this purpose.(2)The Board shall make arrangement for internal Audit of its Accounts every year by such officers or persons as it may deem fit.(3)The Forms of Accounts to be maintained by the Board for the purpose of Audit shall be such as may be determined by the Board in consultation with the Director of Audit (Local Fund), Assam.(4)The report of Audit

with comments of the Board thereon shall be submitted to State Government every year.

3G. Delegation of Power.

(1) Subject to the provisions of this Act, the Board may by general or special order delegate to the Chief Executive Officer or to any other officer of the Board such of the powers and duties under the Act as it may deem fit. (2) The Chairman or the Chief Executive Officer of the Board may delegate any of his powers under this Act to any officer of the Board.

3H. Powers and Functions of the Chairman.

(1) The Chairman of the Board shall be responsible for the administration of the Assam Agricultural Produce Market Act, 1972 as amended from time to time and shall subject to any other provisions as may be prescribed and the bye-laws framed, exercise general control over the employees of the Board and market Committees. (2) The other powers and functions of the Chairman shall be such as may be prescribed.

3I. Functions and powers of the Chief Executive Officer.

(1) The Chief Executive Officer of the Board shall exercise supervision and control over the officers and staff employed by the Board and Market Committees in matters of administration, execution of works, maintenance of accounts and records of the Board and disposal of all questions relating to the service matters of the employees subject to the approval of the Chairman of the Board. (2) The other powers and functions of the Chairman shall be such as may be prescribed.

4. Notification of intention of exercising control over purchase and sale of agricultural produce in specified area.

(1) The State Government may by notification in the Official Gazette, declare its intention of regulating the purchase and sale of such agricultural produce in "specified" such areas as may be specified in the notification. A copy of the notification under this section shall also be published in the area concerned in the manner prescribed : Provided that no area within the limits of a District Council shall be included in the area specified in such notification except after consultation with the District Council concerned. (2) The notification under sub-section (1) shall state that any objection or suggestion received by the State Government within a period of not less than one month to be specified in the notification under sub-section (1) shall be considered by the State Government.

5. Declaration of market area.

(1) After the expiry of the period specified in the notification issued under Section 4 and after considering such objections and suggestions as may be received before such expiry and after holding such enquiry as may be necessary, the State Government may, by notification in the Official Gazette, declare the area specified in the notification under Section 4 or any portion thereof to be a market

area for the purpose of this Act in respect of all agricultural produce specified in the said notification. A copy of the notification under this section shall also be published in the area concerned in the manner prescribed.(2)On and after the date of the publication of the notification under sub-section (1) or at such later date as may be specified therein, no local authority or other person, notwithstanding anything contained in any law for the time being in force, shall, within the market area or within a distance thereof to be notified in the official Gazette in this behalf, set up, establish or continue or allow to be. set up, established or continued, any place for the purchase or sale of any agricultural produce so notified, except in accordance with the provisions of this Act, and the rules and bye-laws, framed there-under for purchase or sale of any agricultural produce so notified.(3)Nothing in sub-section (2) shall apply to the purchase or sale of such agricultural produce if the producer of such produce is himself is seller and the purchaser is a person, who purchases such produce for his own private consumption or if such agricultural produce is sold by retail sale to a person who purchases such produce for his own private consumption.(4)The State Government, may, at any time by notification in the official Gazette, exclude from the market area any area add a new area to it.(5)Subject to the provisions of Section 4, the State Government may, at any time by notification in the official Gazette, withdraw any notification issued under sub-section (1).

6. Declaration of market yards.

(1)For each market area there shall be one principal market-yard and one or more sub-market-yards as may be necessary.(2)The Board with the approval of the State Government may declare-(i)any enclosure, building or locality in any market area to be the principal market-yard and other enclosures, buildings or localities in such market areas to be one more sub-market-yard or yards for the area; and(ii)any area including all lands with the buildings and structures thereon within such distance of the principal or sub-market yard or yards, as the case may be, as it thinks fit to be market proper :Provided that the location of the principal market yard, sub-market yard or yards or any other lands, buildings or structures ancillary thereto shall be at a close distance from the location where the trade and merchandise in all or any specified agricultural produce normally takes place.(3)The land requirement for establishing a structure and its specification shall be such as may be prescribed.Explanation. - For this sub-section the word structure shall include any office building of the Market Committee, staff quarter, rest house, godown, principal market yard, sub-market yard or yards, check-gate and its ancillary structures.

7. Establishment of Market Committee.

(1)The State Government shall establish a market committee for every area declared to be a market area under sub-section (1) of Section 5. It shall be the duty of the market committee to enforce the provisions of this Act and the rules and bye laws framed thereunder in such market area.(2)The State Government may establish a separate market committee within the same market area or a part thereof provided it is satisfied that trading in a particulars type of agricultural produce can be regulated only if and when an independent market committee already functioning is unable to undertake regulated trading in that commodity because of its peculiar nature :Provided that not more than one Market Committee shall be established within the same market area or a part thereof

for the same type of agricultural produce.

8. Constitution of Market Committee.

(1) Every Market Committee shall consist of the following members namely : (i) seven agriculturists who are voters of Gaon Panchayat to be elected by the members of the Gaon Panchayat in the market area in the manner prescribed : (ii) three to be elected by the traders, otherwise than co-operative marketing societies and Gaon Panchayat, holding valid licence under this Act from amongst themselves in the manner prescribed : (iii) one to be elected by the members of the Managing Committee or Board of Directors, as the case may be, of the co-operative marketing societies in the market area holding a licence under this Act from amongst themselves in the manner prescribed; (iv) one to be nominated by such Co-operative Bank as may be decided upon by the State Government; (v) one to be nominated by the State Government; (vi) one to be elected by the members of the Municipal Board, Town Committee or Gaon Panchayat within whose jurisdiction the principal market-yard is situated from amongst the members of the Municipal Board. Town Committee or Gaon Panchayat, as the case may be. When the principal market-yard is situated within the jurisdiction of two or more local authorities of the type mentioned above, one member to be elected jointly by the members of the local authorities concerned from amongst themselves in the manner prescribed. (vii) one to be nominated by the Warehousing Corporation, if a warehouse has been established by such Corporation within the market area and where no such warehouse has been established, then two persons shall be elected by the Co-operative Marketing Societies under Clause (iii). (2) Notwithstanding anything contained in sub-section (1), on the failure of any organisation, person or authority to elect any member under sub-section (1) within a period of three months from the date of the occurrence of the vacancy, the Director shall give notice in writing to the organisation, person or authority concerned to elect the member within a month from the date of such notice and on the failure of the organisation, person or authority to elect a member within the said period, the Director shall nominate of the market committee. (3) When a market committee is constituted for the first time all the members of the market committee including the Chairman and Vice-Chairman thereof shall be nominated by the State Government and such members shall hold office for a period of three years : Provided that the State Government may extend the term of the Market Committee for a period not exceeding two years; Provided further that the extension period on any occasion shall not exceed one year at a time.

9. Period of office of Market Committee.

(1) Every member of market committee other than the first one constituted by the State Government shall hold office for a period of three years commencing from the date of first meeting of the reconstituted market committee at which a quorum is present. The market committee shall, thereafter, be reconstituted every three-years before the expiry of the third year and not earlier than three months prior to such expiry. (2) The term of three years referred to in sub-section (1) shall include any period which may lapse between the expiry of the said three years and the date of the first meeting of the reconstituted market committee, at which a quorum is present. (3) The State Government may, by notification for sufficient cause to be stated therein, direct from time to time that the term of office of the members of a market committee be extended by such period not

exceeding one year as may be specified in the notification.(4)A member elected or nominated under sub-section (1) of Section 8 shall cease to hold office, if he ceases to be a member of the category of persons from which he was elected or nominated.(5)A member shall also cease to hold office if he in writing resigns his membership and the same is accepted by the market committee or of he is removed by the State Government under the provisions of this Act.(6)Whenever any vacancy occurs in membership for any of the reasons aforesaid, the said vacancy shall be filled in by election or nomination, as the case may be, and every such member elected or nominated, shall hold office for the unexpired period of the term of the member in whose place he is elected or nominated.(7)Notwithstanding any vacancy in a market committee it shall be competent to exercises its powers and perform its duties and none of its actions shall be questioned merely on the ground of the existence of any vacancy in or any defect in the constitution of the committee.

10. Chairman and Vice-Chairman of Market Committee.

(1)Subject to the provision of sub-section (3) of Section 8 every market committee shall elect, in the manner prescribed, one of its members to be its Chairman and another member to be its Vice-Chairman.(2)The Chairman and the Vice-Chairman shall exercise such powers and carry out such duties on behalf of the Committee under this Act and the rules made thereunder, from time to time, as may be prescribed.(3)Whenever for any reason, the offices of both the Chairman and the Vice-Chairman of any Market Committee fall vacant, the State Government shall appoint any one from amongst the members of such market committee as the Chairman to hold office as such temporarily, till a Chairman is elected.(4)The Chairman, or in his absence, the Vice-Chairman shall preside at every meeting of the market committee and in the absence of both the Chairman and the Vice-Chairman at any meeting, the members present shall elect one from amongst themselves to preside over that meeting.(5)When a meeting is held for the removal of the Chairman or the Vice-Chairman or both-(a)the Vice-Chairman or in his absence, a member duly elected at the meeting shall preside if the resolution relates to the removal of the Chairman;(b)the Chairman or in his absence a member duly elected at the meeting, shall preside if the resolution relates to the removal of the Vice-Chairman;(c)a member duly elected at the meeting shall preside if the resolution relates to the simultaneous removal of both the Chairman and the Vice-Chairman.

11. Removal of Chairman and Vice-Chairman.

(1)The Chairman or Vice-Chairman of any market committee may be removed from office by a resolution adopted by at least two-third of the total number of members of the market committee present and voting at the meeting convened for the purpose, in the manner prescribed.(2)The State Government may, after giving an opportunity to explain, remove the Chairman or Vice-Chairman of a market committee from office if the persistently omits or refuses to carry out or disobeys the provisions of the Act or the rules made thereunder or any directive issued by the Competent Authority under this Act or rules made thereunder from time to time, or if he becomes incapable of so acting or is declared insolvent or is convicted by a criminal Court for any offences involving moral turpitude or declared disqualified under any of the provisions of this Act and the rules made thereunder.

12. Calling of meetings and quorum.

(1) No business shall be transacted at any meeting of the market committee unless—(a) such meeting is called by the Secretary under the direction of the Chairman or Vice-Chairman, as the case may be, or as may be required on a requisition by the members as prescribed, and (b) a quorum is present. (2) The quorum referred to in sub-section (1) shall be one-third of the total number of members of the market committee. If at any meeting the prescribed quorum is not present the meeting shall stand adjourned to some future day to be appointed by the Chairman, Vice-Chairman or any member who may preside at the meeting, as the case may be. The members present at such adjourned meeting shall form a quorum whatever their number may be.

Chapter III

Incorporation of Market Committee, its Objects, Powers and Duties

13. Incorporation of Market Committee.

(1) Every market committee shall be a body corporate by such name as the State Government may specify by notification in the official Gazette. It shall have perpetual succession and a common seal, may sue or be sued in 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 purpose for which it is established. (2) Where a market committee is established in any area, no person shall use any place for buying and selling of notified agricultural produce and function as a trader, commission agent, broker, weighman, measurer, surveyor, warehouseman or in such other capacity as may be determined by the Director or run a proceeding or pressing factory within the market area unless a licence is issued to such person by the market committee on payment of such fees and subject to such conditions as may be prescribed.

14. Functions of the Market Committee.

- The functions of a market committee shall be as follows : (i) to maintain and manage the market-yard and to control, regulate and run the market in the interest of the agriculturists and traders holding licence from the market committee; (ii) to regulate and control transactions in the market and to deal with licence holder who defaults to open, close and suspend trade in any notified agricultural produce, to settle disputes, levy and recover market charges, fees on an agricultural produce, licence and other fees, to impose fines and penalties; (iii) to act as a mediator, arbitrator or surveyor in all matters of differences, disputes, claims, etc., between licences or between them and agriculturists making use of the market as sellers of agricultural produce; (iv) to control and regulate the admission to the market, to determine the conditions for the use of the market and to prosecute and confiscate the goods belonging to persons trading a valid licence; (v) to bring, prosecute or defend or aid in bringing, prosecuting or defending any suit, action, proceeding, application or arbitration on behalf of the market committee or otherwise as directed by the State

Government;(vi)to purchase, hire or acquire any land for construction of any house thereon or other movable or immovable property and other equipment for the purpose of its business, to raise fund from the Government or otherwise with the approval of the Director for the said purpose and to enter into arrangements with the Government, local authority or otherwise and to comply with such arrangements; and(vii)to do such other things as may be required for the purpose of achieving the objects and requirements of the Act and the rules and bye-laws framed thereunder.

15. Power of the Market Committee.

- A market committee shall have the power to regulate entry of persons into the principal or sub-market-years to supervise the behaviour of the persons so entered for transacting business and to take disciplinary action against the licensee who fails to fulfil the conditions of the licence or any direction of the market committee, issued within the purview of this Act or rules or bye-laws.

16. Duties of the Market Committee.

- It shall be the duty of every market committee to enforce the provisions of this Act, the conditions of licence granted under the rules and bye-laws framed under the Act in the market area and to provide such facilities as the State Government may, from time to time, direct in connection with the purchase and/or sale of notified agricultural produce concerned.

17. Appointment of Sub-Committee and Joint Committee.

- A market committee may appoint a sub-committee or a joint committee or an ad hoc committee from amongst its members or any other person from within the market area for the administration of the sub-market-yard, for the conduct of any work or for reporting or recommending or deciding any matter or matters and may delegate to such committee such of its powers or duties as it may think fit. There shall be at least three such members in such committee.

18. Appointment of Secretary.

- Every market committee shall have a Secretary appointed by the Board subject to such terms and conditions as may be prescribed.

19. Appointment and salaries of staff market of Committee.

(1)A market committee may also employ such other officers and staff as may be necessary for the management of the market and may pay such officers and staff such salaries as it may think fit:Provided that no new post of any category shall be created by the Market Committees without obtaining prior approval of the State Government through the Board and no new appointment shall be made in any capacity in the Market Committee whether on fixed pay or ad-hoc basis or otherwise unless the post is approved by the State Government. The Market Committee shall submit the respective lists of posts category-wise created since its establishment and before the date of coming

into force of the Assam Agricultural Produce Market (Amendment) Act, 2000, to the Board within one month from the date of commencement of the Assam Agricultural Produce Market (Amendment) Act, 2000, for ex-post-facto approval of the Government and the Board in turn submit the same before the State Government within two months from the date of such coming into force for ex-post-facto approval of the State Government.(2)A market committee may also provide for the payment of such leave, allowances, pensions and gratuities as it may deem proper and may contribute to any provident fund which may be established for the benefit of such officers and staff.(3)The powers conferred by this section on the market committee shall be exercisable by it subject to any rules which may be made in this behalf by the Board.

20. Execution of contracts.

- Every contract entered into by a market committee shall be in writing and shall be signed by its Chairman, Secretary and two other members of the committee.

21. Power to levy cess.

- Every market committee shall levy and collect a cess on the agricultural produce bought or sold in the market area at a rate not exceeding two rupee for every one hundred rupees of the aggregate amount for which a notified agricultural produce is bought or sold whether for cash or for deferred payment or other valuable considerations :Provided that no cess will be levied on goods manufactured from the agricultural produce on which cess is proposed to be levied and which are ultimately exported out of the country.Explanation I. - For the purpose of this section all Specified Agricultural Produce shall unless the contrary is proved be deemed to be bought or sold in notified market area if-(i)Such produce is taken out or proposed to be taken out of the said area; or(ii)the agreement of sale or purchase thereof in respect of such produce is entered into in the said area, or(iii)in pursuance of sale or purchase or the agreement of sale or purchase such produce is delivered in the said area to the purchaser or to some other person on behalf of the purchaser.Explanation 2. - The cess referred to in Section 21 shall be paid by the purchaser of the notified agricultural produce concerned.

21A. Prevention or evasion of cess.

- For prevention of the evasion of cess on Specified Agricultural Produce the Market Committee shall establish check gates at different points within the Market Area whenever felt necessary with the prior approval of the Board."

22. Certain differences regarding construction of rules, etc., about weight and measures to be decided by market committee.

(1)Notwithstanding anything contained in the Assam Weights and Measures (Enforcement) Act, 1956, if any difference arises between the Inspector or any other officer, empowered to enforce the aforesaid Act and any person interested, as to the meaning or construction of any rule framed under

the aforesaid Act, as to the method of evolving, adjusting or stamping any weight or measure or weighing or measuring instrument in any market area, such difference may, at the request of the person interested or by the Inspector or the officer of his own accord, be referred to the market committee of the area and the decision of the market committee shall, subject to the provisions of sub-section (2), be final and deemed to have been given under the Assam Weights and Measures (Enforcement) Act, 1956 (Assam Act XIX of 1956). (2) An appeal shall lie against the decision of the market committee within thirty days (excluding the time required for taking copies) from the date of 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, as the case may be, on such appeal shall be final.

23. Market Committee Fund.

- All money received by a market committee shall be paid into a fund to be called "The Market Committee Fund" and all expenditures incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the market committee after such expenditure shall be invested in such manner as may be prescribed in this behalf.

23A. Audit of Accounts of the Market Committee.

(1) The accounts of the Market Committee shall be audited by the Director of Audit (Local Fund), Assam or in whatever name he may be called or the officer authorised by him. The Market Committee shall be deemed to be Local Authority for this purpose. (2) The Board shall undertake the matter of internal audit of the accounts of the Market Committees. (3) The forms of accounts to be maintained by the Market Committee for the purpose of audit shall be such as may be determined by the Board in consultation with the Director of Audit (Local Fund) Assam. (4) The report of Audit on the accounts of the Market Committees shall be submitted to the Board with the Comments of the Committee thereon for its onwards submission to the Government.

24. Pool of officers.

(1) The Board shall create a pool of officers as soon as may be convenient for appointment of such staff at the markets as may be notified from time to time in the official Gazetted. Every market Committee shall contribute a sum not exceeding 30 per cent of its gross revenue as may be determined by the Director to the fund of the Board to meet the cost of staff to be appointed by the Board under sub-section (2) and also for meeting the cost of general supervision. (2) The Board shall make appointment to the post notified under sub-section (1) from the pool of officers created by the Board and it shall be obligatory on every market committee to employ such persons. The emoluments and terms and conditions of service of such officers shall be fixed by the Board : Provided that until a pool of officers is created by the Board, the Director may permit employment of other persons to the posts notified under sub-section (1) purely on temporary basis.

25. Purpose for which Market Committee Fund shall be expended.

- Subject to the provisions of Section 23 the Market Committee Fund shall expended for the following purpose, namely : (i) contributing to general revenues of the Board, Mahkuma Parishads, Gaon Panchayats, Town Committees and Municipal Boards as the State Government may direct; (ii) payment of interest on the loans that may be raised for the purposes of the market and the provision of sinking fund in respect of such loans; (iii) the acquisition of a site or sites for the market; (iv) the maintenance and improvement of the market; (v) the construction and repair of buildings necessary for the purpose of such market and for the healthy convenience and safety of the persons using it; (vi) the provision and maintenance of standard weights and measures; (vii) pay, pensions, leave, allowance, gratuities, compensations for injuries resulting from accidents, compassionate allowances and contribution towards leave allowances, pensions or provident fund of the officers and staff employed by it; (viii) the expenses of an incidental to elections of the market committee; (ix) collection and dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce notified under Section 5; (x) [deleted] (xi) propaganda in favour of the agricultural improvement; and (xii) other functions under the Act and the Rules. (xiii) any matter which the Board may entrust.

26. Misapplication of fund.

- If a market committee incurs an expenditure for any purpose, other than those specified under the last proceeding section or in excess of the expenditure approved by the Director, then it shall be deemed to be a mis-application of the fund.

27. 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 lands, buildings and equipment required for establishing the market, obtain loan from the State Government or any financial institution. (3) The conditions subject to which such money or loan shall be raised or obtained and time within which such money or loan shall be repayable shall be subject to the previous sanction of the State Government.

28. Acquisition of land for the purpose of this Act.

- The State Government may, on the request of the market committee and/or the Board, acquire land required for the purposes of this Act, under the provisions of the Land Acquisition Act, 1894.

Chapter IV

Trade Allowances

29. 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 areas in any transaction in respect of the notified 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 or on account of difference between the actual weights 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.

30. Liabilities of members of Market Committee to removal from office.

(1) The State Government may, on the recommendations of the market committee supported by at least two-third of the total members or on the recommendations of the Director remove any member of the market committee, elected or nominated under this Act, if such a member has, in the opinion of the State Government, been guilty of misconduct in the discharge of his duties, or has become incapable of performing his duties as a member : Provided that no recommendations shall be made by the market committee or the Director unless the member has been given a reasonable opportunity of showing cause why such recommendation should not be made; Provided further that no order for removal of any member shall be passed by the State Government unless the member has been given a reasonable opportunity of showing cause why such order should not be passed. (2) The decision of the State Government under sub-section (1) shall be final.

31. Members to be held responsible for misapplication of Funds.

- Every member of the market committee shall be personally liable for the mis-application offend to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a member, and he may be sued for recovery of the moneys so mis-applied : Provided that no member shall be personally liable in respect of any contract or agreement duly made, or for any expense incurred for, or on behalf of the market committee, but the funds at the disposal of the market committee shall be liable for and be charged with, all costs in respect of any such contract and agreement and all such expenses.

32. Duty to furnish information to Director and other authorised officer.

- When the affairs of the Board or of a market committee are investigated or the proceedings of such Board or committee are examined by the Director or any other officer to whom the powers of the

State Government has been delegated under Section 48, all officers, staff and members of such committee shall furnish such information in their possession in regard to the affairs or proceedings of the Board or committee as the Director or such officer may require.

33. Power to inspect.

- The Director or any officer authorised by the State Government, by general or special order, shall have power to inspect or cause to be inspected the accounts of the Board or any market committee or to institute an enquiry into the affairs of the Board or any market committee and to require it to do anything or to desist from doing anything which the Director or such officer considers necessary in the interest of the Board or any market committee, as the case may be, and to furnish a written reply to him within a reasonable time stating its reasons for non-compliance.

34. Power of the Director in emergency.

(1) In case of an emergency, the Director may suspend or cancel all or any licence issued under the provisions of this Act and take such other steps as may be deemed necessary in the interest of a market. (2) Where a market committee is not competent to perform the duties imposed by or under this Act, under orders or decision of a Court, the Director shall make such arrangement for performing the duties and functions of such a market committee.

35. Recovery of loss.

(1) Any loss that may occur to a market committee due to its failure to carry out any instruction of the Director shall be recoverable from the members of the market committee after due enquiry and reasonable opportunity being given to them of showing cause why such loss should not be recovered from them. (2) Any amount recoverable from the members of a market committee under this section shall be realised as an arrear of land revenue.

36. Power to enforce attendance.

- An officer investigating the affairs of the Board or of a market committee or examining the proceedings of such Board or Committee under Section 32 shall have powers to summon and enforce the attendance of officers or members of the Board or market committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided by the Code of Civil Procedure, 1908 (Act No. 5 of 1908).

37. supersession of Market Committee.

- If in the opinion of the State Government a market committee is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the State Government may, after giving the market committee an opportunity for submitting an explanation in regard to the matter, by

notification, stating the reasons for so doing, declare such committee to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede the committee for a period not exceeding one year at a time or dissolve the committee and reconstitute it as soon as possible :Provided that when a committee is superseded or dissolved the State Government may appoint any person as Chairman to carry on day-to-day routine matters on behalf of the committee until the same is reconstituted and a new Chairman is elected.

38. Consequence of supersession.

(1)When an order of supersession shall have been passed under the last preceding section the following consequences shall ensue-(a)all the members as well as the Chairman and the Vice-Chairman of the market committee shall from the date of such publication, vacate their offices;(b)all the powers and duties which under the Act may be exercised and performed by the committee, whether at a meeting or otherwise, shall, during the period of supersession, be exercised and performed by the Chairman appointed by the State Government or by such person as the State Government may direct;(c)all assets vested in such committee shall, during the period of supersession, vest in the State Government subject to all its liabilities.(2)On the expiration of the period of supersession specified in the order, the State Government may-(a)extend the period of supersession for such further term as may be considered necessary but not exceeding a period of one year at a time; or(b)reconstitute the market committee and in that case the persons who vacated their office under Clause (a) of sub-section (1) shall not be deemed disqualified for election or nomination, as the case may be :Provided that the State Government may, at any time before the expiration of the period of supersession, take action under Clause (b) of this sub-section.(3)If the State Government make an order for reconstitution of the market committee under sub-section (2) it shall transfer the assets and liabilities of the market committee as on the date of such transfer to the new market committee constituted as such or to the person or persons if any appointed for carrying out the functions of the market committee, as the case may be:Provided that if the market committee is not reconstituted or if no person is appointed for carrying out the function of the market committee the State Government may transfer all the assets of the market committee which remain after the satisfaction of all its liabilities to the local authority within whose jurisdiction the market committee is situated or if there are more than one such authority, such portion of the assets as the State Government may determine. The local authority to which the assets are so transferred shall utilise the same in the area within its jurisdiction, for such objects as the State Government may consider to be for the benefit of the agriculturist in that area in consonance with the provisions of this Act.

39. Penalties.

(1)Penalty for contravention of Section 5. Whoever contravenes the provisions of sub-section (2) of Section 5 shall, on conviction, be punishable with fine which may extend to five hundred rupees and in case of continuing contravention, with further fine which may extend to one hundred rupees per day during which the contravention is continued after the conviction.(2)Whoever in contravention of the provisions of sub-section (2) of Section 13 of the Act uses any place in the market area for being and selling of notified agricultural produce or operates as a trader, commission agent, broker,

weighman, measurer, surveyor, warehouseman, processor or in any other capacity in relation to marketing of such produce without valid licence, shall, on conviction, be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, and in the case of continuing contravention, with a further fine which may extend to one hundred rupees per day during which the contravention is continued after the first conviction.(3)Penalty for evasion of payment of cess or other amounts. - Any person who fraudulently evades the payment of any cess or other amount due from him under this Act or the rules or the bye-laws framed thereunder, shall, on conviction, be punishable with fine which may extend to five hundred rupees, and in case of continuing evasion with a further fine which may extend to one hundred rupees per day during which the evasion is continued after conviction thereof.(4)Liability of accused to any cess, fees or other amount. Any person who is prosecuted for an offence under sub-section (1) shall be liable, on proof to the satisfaction of the Magistrate that he wilfully omitted to pay the cess or other amount due from him under this Act or the rules or the bye-laws, to pay to the market the amount which may be due from him on account of such cess or other amount.(5)Power of Magistrate to recover cess or other amount. Wherever any person is convicted of an offence under this Act, or the rules or the bye-laws framed thereunder, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the Market Committee the amount of cess or other amount due from him under this Act, or rules or the bye-laws, and may in his discretion, also recover summarily and pay over to the Market Committee such amounts as he may fix as the costs of the prosecution.(6)Whoever obstructs any person duly authorised for seizing or confiscation of notified goods for buying and selling in market area shall be punished with imprisonment for a term not exceeding six months' simple imprisonment or with fine not exceeding rupees five hundred or with both.(7)Whoever, contravenes any of the provisions of this Act, rules and bye-laws framed thereunder, if no penalty is provided, on prosecution, shall be punished with imprisonment for a term not exceeding three months' simple imprisonment or with fine which may extend to rupees two thousand or with both.

40. Eviction of encroacher from marked-yard.

- Every encroacher of market yard, sub-market-yard or yards shall be evicted therefrom in such manner and procedure as provided in law in force for eviction of encroacher of Government reserved land.

41. Penalty for contravention of Section 29.

(1)Whoever in contravention of the provisions of Section 29 makes or recovers any trade allowances prescribed by rules or bye-laws made under this Act shall, on conviction, be punishable with fine which may extend to rupees two hundred.(2)All fines and damages recovered from an offender shall be paid to the market committee concerned.

42. Penalty for contravention of provision of Section 32.

(1)If any officer or member of the Board or market committee when required to furnish information in regard to the affairs or proceedings of the Board or a market committee under Section

32-(a) wilfully neglects or refuses to furnish any information, or (b) wilfully furnishes false information, he shall, on conviction, be punishable with fine which may extend to rupees two hundred. (2) If any officer, member, or a staff of the Board or a market committee wilfully neglects or refuses to do any act or wilfully or without any reasonable excuse, disobeys a lawful written order issued under the provisions of this Act or fails to furnish information or return lawfully required from him, he shall, on conviction, be punishable with fine which may extend to rupees five hundred.

43. Chairman, Vice-Chairman, Member and staff of Market Committees to be public servants.

- The Chairman, Vice Chairman, Members, Chief Executive Officer, Secretary and other officers and staff of the Board or a market committee shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (Act XLV of 1860).

44. Bar of suit in absence of notice.

(1) No suit shall be instituted against the Board or a market committee or any member, officer or staff thereof, or any person acting under the direction of such Board or market committee for anything done or purported to be done in good faith by such member, officer, staff or person under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been in the case of the Board or a market committee, delivered or left at its office, and in the case of any such member, officer, staff or person as aforesaid, delivered to him or left at his office or usual place or abode and the plaint shall contain a statement that such notice has been so delivered or left. (2) Every such suit shall be barred unless it is instituted within six months from the date of the accrual of the alleged cause of action.

45. Trial of offences.

(1) No offence under this Act, or any rule or bye-law framed thereunder shall be tried by a Court other than that of a Judicial Magistrate of the First Class or a Judicial Magistrate of the Second Class, specifically empowered in this behalf by the State Government. (2) Prosecution under this Act, rules or bye-laws framed thereunder may be instituted by any person duly authorised in writing by the State Government or the market committee in this behalf.

46. Admissibility of copy of entry as evidence.

(1) A copy of any entry in any book, register or list regularly kept in course of business in the possession of a market committee shall, if duly certified, in such manner as may be prescribed, be admissible in evidence of the existence of such entry and shall be admitted as evidence of the matter and the transaction therein recorded in every case, where and to the same extent to which the original entry would, if produced, have been admissible to prove such matter. (2) In the case of such market committee as the State Government, by general or special order, may direct, no officer of a

market committee shall, in any legal proceedings to which the market committee is not a party, be compelled to produce any of its books, the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded unless otherwise ordered by the Court in that behalf.

47. Recovery of sums due to and from Market Committee.

(1) Every sum due from a market committee to the State Government or the Board or any local authority shall be recoverable as an arrear of land revenue. (2) Every sum due to a market committee from any person shall be reduced to the form of a demand certificate, as prescribed, over the signature of the Director or of such gazetted officer as may have powers delegated to them by the Director in this behalf and shall be recovered as an arrear of land revenue on such certificate being forwarded to the certificate officer concerned.

48. Power of the State Government to delegate its power.

- The State Government may delegate by notification in the official Gazette any of the powers conferred on it by or under this Act to any of its officers or to the Board or to its Chairman or Secretary.

49. Power to make rules.

(1) The State Government may, either generally or specially for the Board or any market area or market areas, make rules, after previous publication for the purpose of carrying out the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for or regulate—(i) the qualifications of voters, the preparation and revision of the lists of voters, the division of market area into constituencies, the election, appointment and nomination of members of the market committee, the manner of holding election, the drawing up of the election programme, the fixing of polling stations and the appointment of Returning, Presiding and Polling Officers, the declaration of the results of election and matters regarding appeals in respect of disputes in connection with elections; (ii) the election of the Chairman and the Vice-Chairman of the market committee; (iii) the filling up of casual vacancies in the office of Chairman, Vice-Chairman or member of a market committee; (iv) the powers to be exercised and the duties to be performed by a market committee and its Chairman, Vice-Chairman and Secretary; (v) the management of the market, minimum and maximum cess which may be levied and collected by the market committee, the method, manner and mode of collection of such cess in respect of agricultural produce regulated under the Act and sold and re-sold in the market area; (vi) the issue of licences to traders, persons and firms engaged in processing of agricultural produce, commission agent, brokers, weighmen, measurers, surveyors, warehousemen and the cancellation and suspension of such licence and the category of such other persons operating in a market area as may be determined by the Director and the form in which and the condition subject to which such licences shall be issued, cancelled, or renewed therefor; (vii) the method and manner of holding meetings, the procedure to be followed at such meetings and the powers to be exercised at such meetings; (viii) the form in which returns shall be submitted by the Board or a market

committee to the Director and such other officers as may be authorised by the Director;(ix)the persons by whom and the form in which copies of documents, entries in the books of a market committee may be certify and the charges to be levied for the supply of such copies;(x)the kind and descriptions of the weights and measures and the weighing and measuring instruments which alone shall be used in the transactions in agricultural produce in market areas;(xi)the periodical inspection of all weights and measurers and weighing and measuring instruments in use in market areas;(xii)the procedure to be followed in presenting and disposing of an appeal to the State Government or the officer appointed by it in that behalf under sub-section (2) of Section 22;(xiii)the manner in which the inquiry and inspection of the Board or a market committee shall be held;(xiv)the matters in respect of which the Board or a market committee shall or may make bye-laws and the procedure to be followed in making or abrogating bye-laws and the conditions to be fulfilled prior to making such abrogations and alternations;(xv)[deleted](xvi)[deleted](xvii)the trade allowance which may be made or received by any person in any transaction in any agricultural produce in a market area;(xviii)the prohibition of brokers for acting in any transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller;(xix)the provision of accommodation for storing any agricultural produce brought into the market;(xx)[deleted](xxi)the form in which the accounts of the Board or a market committee, and the grant or sanction to plans and estimates shall be kept, the audit, inspection and publication of such accounts if any to be made for such audit and the inspection of audit memoranda of the accounts and supply of copies of such memoranda;(xxii)the preparation and submission for sanction of the annual budget and the report and returns to be furnished by the Board or a market committee;(xxiii)[deleted](xxiv)the regulation of advances, if any, given to agriculturists by brokers, commission agents, or traders;(xxv)the prevention of adulteration of agricultural produce;(xxvi)the grading and standardisation of agricultural produce;(xxxii)the keeping of a list of prices of agricultural produce in respect of which the market is established;(xxviii)the manner in which auctions of agricultural produce shall be conducted and bid made and accepted in any market;(xxix)the recovery and disposal of cost leviable by or under this Act;(xxx)other matters relating to the functioning of the Board or the market committee.(3)Any rule made under this Act may provide that for any contravention thereof or any of the conditions of licence issued or renewed the offender shall, on conviction be punishable with fine which may extend to rupees two hundred.(4)Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or amendment shall be without prejudice to the validity of anything done under that rule.

50. Bye-laws.

(1)Subject to any rule made by the State Government under Section 49, the market committee may, in respect of the agricultural produce and the market area under its management make bye-laws and from time to time alter or rescind the same, but not so as to render them inconsistent with this Act and rules made for the regulation of business and the conditions of trading therein with the previous

sanction of the Director or any other officer specially empowered in this behalf by the State Government.(2)Any bye-law made under this section may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to rupees one hundred.(3)When the Director or any other officer empowered in this behalf by the State Government sanctions any amendment of the bye-laws of a market committee, he shall issue to market committee a copy of the amendment certified by him which shall be conclusive evidence that it is duly sanctioned.

51. Power of the Director to impose bye-laws.

(1)Notwithstanding anything contained in this Act or the rules or bye-laws framed thereunder, if the Director considers that an amendment, alteration, rescission or adoption of a new bye-law is necessary or desirable in the interest of market committee, he may by an order in writing to be served on a market committee by registered post, require it to make such amendment alteration, rescission or adoption of a bye-law within such time as may be specified in such order.(2)If the market committee fails to make any such amendment, alteration, rescission or adoption of the bye-law within the time specified by the Director in his order under sub-section (1), the Director may after giving the market committee an opportunity of showing cause why such amendment, alteration, rescission, or adoption should not be made, register such amendment, alteration, rescission or adoption of bye-law and issue a certified copy thereof to such market committee.(3)The market committee may, within one month from the date of the issue of an order made under sub-section (2) appeal from such order to the State Government.(4)Where no appeal is presented within one month from the date of the issue of an order under sub-section (2) registering an amendment such amendment shall not come into force till the order is confirmed by the State Government.(5)A certified copy of the amendment of the bye-law registered by the Director under sub-section (2) shall, subject to the result of an appeal, if any under sub-section (3), be conclusive evidence that it has been duly registered and such amendment, alteration, rescission or adoption of bye-law shall be deemed to have made by the market committee.

52. Power of State Government to call for proceedings of Market Committees and to pass orders thereon.

(1)The State Government may at any time call for and examine the proceedings of the Board or any market committee for the purpose of satisfying itself, as to the legality or propriety of any decision or order passed by the Board or market committee under the rules. If in any case, it appears to the State Government that any decision or order or proceedings so called for should be modified, annulled or revised the State Government may pass such order thereon as it may think fit.(2)The State Government may, by general or special order delegate to the Director all or any of the powers conferred upon it by this section.

53. Power of State Government to amend the Schedules.

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

54. Savings.

- Nothing contained in the Assam Panchayati Raj Act, 1972 (Assam Act XI of 1973) or in any other law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply to any marked area or affect in any way the powers of a market committee or the rights of a holder of a licence granted under sub-section (2) of Section 13.

Schedule

[See Section 2 (1) (j)] I. Fibres: (1) Jute (baled and unbaled) (2) Cotton (ginned and unginned). (3) Mesta. (4) Sunhemp. II. Cereals: (1) Paddy. (2) Rice (3) Muri. (4) Chira. (5) Khali. (6) Wheat and wheat products. (7) Maize. (8) Other millets. (9) Paddy husk. (10) Rice barn and polished. (11) Wheat Bran and polished. III. Pulses: (1) Matikalai or Matimah. (2) Mug. (3) Arhar. (4) Peas. (5) Gram. (6) Musur. IV. Oil seeds (1) Sesamum or till. (2) Mustard. (3) Linseed. (4) Castor Seed. (5) Cotton Seed. (6) Coconut. (7) Tisi. V. Narcotics: (1) Tobacco VI. Fruits: (1) Mandarin. (2) Lime (3) Lemon. (4) Mussambi. (5) Valencia. (6) Grape fruits. (7) Other citrus (8) Banana. (9) Papaya. (10) Guava. (11) Jack fruits. (12) Mango. (13) Plum. (14) Peaches. (15) Pears. (16) Apples. (17) Pine apples. (18) Bel. (19) Blackberry. (20) Rose apple. (21) Sapeta. (22) Melons. (23) Tamarind. VII. Vegetables: (1) Potato. (2) Sweet potato. (3) Onion. (4) Tomato. (5) Leafy and fresh vegetables. (6) Yam. VIII. Animal husbandry product: (1) Eggs. (2) Poultry (3) Cattle. (4) Sheep. (5) Horse. (6) Goat. (7) Buffaloes. (8) Milk. (9) Butter and cream. (10) Ghee. (11) Wood. (12) Hide and skin. XI. Condiments and spices : (1) Turmeric (whole and powdered). (2) Ginger. (3) Garlic. (4) Coriander. (5) Chillies (Dry and Green). (6) Cardamoms and Black-paper. (7) Betel-nuts. (8) Betel leaves. (9) Cashewnuts. (10) Methi. (11) Jira. (12) Dhania. X. All types offish (excluding canned fish). XI. Forest products: (1) Lac. (2) Gum. (3) Timber XII. Sericultural products: Cocoons and Yams- (1) Eri. (2) Muga. (3) Pat.