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PESHAWAR, TUESDAY, 28TH AUGUST, 2007.

PROVINCIAL ASSEMBLY SECRETARIAT,
THE NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION

Dated Peshawar, the 28th August, 2007.

No. PA/NWFP/Legis-I/2007/18047.—The North-West Frontier Province Agricultural and Livestock Produce Markets Bill, 2007 having been passed by the Provincial Assembly of North-West Frontier Province on the 29th June, 2007 and assented to by the Governor of the North-West Frontier Province on 15th August, 2007 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

THE NORTH-WEST FRONTIER PROVINCE
AGRICULTURAL AND LIVESTOCK PRODUCE MARKETS ACT, 2007.

(N.W.F.P. ACT NO. IV OF 2007)

[First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of the N.-W.F.P. (Extraordinary), dated the 28th August, 2007.]

AN
ACT

to amend and consolidate the law relating to marketing of agricultural and livestock produce in the North-West Frontier Province.

WHEREAS it is expedient to amend and consolidate the law relating to marketing of agricultural and livestock produce in the North-West Frontier Province;

It is hereby enacted as follows:-

1. **Short title extent and commencement.**---(1) This Act may be called the North-West Frontier Province Agricultural and Livestock Produce Markets Act, 2007.

(2) It extends to whole of the North-West Frontier Province.

(3) It shall come into force at once.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

(a) "Agriculture Officer" means Agriculture Officer of the market area;

(b) "agricultural produce" means-

(i) barley and its atta, sattu, bhusa;

(ii) bajra (grains) and its atta;

(iii) chilli (green, dry and ground);

(iv) cotton un-ginned (phutti), cotton ginned (lint), cotton waste;

(v) firewood and tanning bark;

(vi) fodder, viz bardana, senji, lucern, shaftal, berseem, shalgham, guara, chari, bajra, maize, javi, barley, wheat, jowar (green and dry) and their seeds, methi, metha, swank, oats, ajwain and also wheat bhoosa and maize stalks as dry fodder;

(vii) fruits and vegetables (fresh and dry) and their squashes, jams, pickles, cordials, marmalades, chutnies, sauce, jellies, candies, juices;

(viii) gram (whole and split) and its chollia, atta, kera, surri, bura, wanda;

(ix) jowar (grains) and its atta;

(x) jute (seed and fibre);

(xi) maize (grains), maize cobs (dry and green) and its atta, starch, sugar (glucose), gluten, meals and wastes and corn oil;

(xii) mehndi (leaves and powder);

(xiii) oilseeds, viz., cotton seed, linseed, sarson/canola, raya, taramira, soyabean, sunflower, sesamum, groundnut, castor, palm and their oils, oil-cakes, hulls. meals, feeds, vegetable ghee;

- (xiv) pulses (whole and split), viz., moong, mash, masoor, moth, raj mash, arhar, lobia, gram and other beans;
 - (xv) rice (paddy), rice (cleaned), rice (broken), phak, parali, hulls, husks (rice silver), parboiled;
 - (xvi) sugarcane, sugarbeet and its products, viz, gur, shakkar, sugar (desi and refined), molasses, sugarcane juice;
 - (xvii) tobacco leaves, tobacco cured and its snuff or naswar and guraku;
 - (xviii) wheat and its atta, maida, suji, dalia, starch, choker, bran, bhusa ;and
 - (xix) any other commodity that may hereafter be declared by notification to be agricultural produce for the purposes of this Act;
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- (c) "agricultural produce market" means a building, block of buildings, enclosure or other area, as notified by Government, where whole sale marketing of agricultural produce through open auction is carried out;
 - (d) "broker" means any person licenced under sub-section (2) of section 9 to function as broker;
 - (e) "Chairman" means the Chairman of a market committee established under section 7;
 - (f) "changer" means any person licenced under sub-section (2) of section 9 to function as changer;
 - (g) "cold store" means a controlled atmosphere store used for storing agricultural and livestock produce;
 - (h) "dealer" means any person who within the notified market area sets up, establishes, uses or allows to be used any place for the purchase or sale of the agricultural and livestock produce;
 - (i) "Director General of Agriculture" means the Director General of Agriculture (Extension), North-West Frontier Province;
 - (j) "District Co-ordination Officer" means the District Co-ordination Officer of the district within the boundaries of which the notified market area concerned is situated;

- (k) "District Officer Agriculture (Extension)" means the District Officer Agriculture (Extension) of the District concerned;
- (l) "Executive District Officer Agriculture" means the Executive District Officer Agriculture of the District concerned;
- (m) "Government" means the Government of the North-West Frontier Province;
- (n) "grower" means a person who by himself or through tenants or otherwise grows, produces, manufactures or processes agricultural produce or rears livestock and produces livestock products but shall not include a person, other than a member of a society registered under the Co-operative Societies Act, 1925, who works as a dealer or broker either individually or as a partner of a firm of dealers or brokers or is otherwise engaged in the business of disposal, storage and processing of agricultural produce;
- (o) "livestock produce" means-
 - (i) beef, mutton, hides and skin (dry or wet), bones, bone meals, feeds, wool and hair;
 - (ii) cheese, butter, desi-ghee, milk, curd (dahi), margarine; and
 - (iii) poultry comprising turkeys (dressed or otherwise), eggs and fish;
- (p) "market committee" means an agricultural market committee established under section 7;
- (q) "member" means a member of a market committee;
- (r) "notified market area" means any area notified under section 4;
- (s) "prescribed" means prescribed by rules or bye-laws made under this Act;
- (t) "Secretary" means the Secretary of the market committee concerned;
- (u) "section" means a section of this Act;
- (v) "trade allowance" means such allowance as may be prescribed by rules or specified in the bye-laws of market committee made under this Act;
- (w) "Vice Chairman" means the Vice Chairman of the market committee concerned;

- (x) "warehouseman" includes a person who stores any agricultural or livestock produce not belonging to him and charges rent therefor in any form, from the persons at whose instance the said produce is so stored; and
- (y) "weighmen" means any person licenced under sub-section (2) of section 9 to function as weighmen.

3. **Notification of intention of exercising control over purchase and sale of agricultural and livestock produce in specified areas.**---Government may, by notification in the official Gazette, declare its intention of exercising control over the purchase and sale of such agricultural or livestock produce or both and in such area as may be specified in the notification and shall invite objections and suggestions from persons likely to be affected thereby. The objections and suggestions which may be received by the District Co-ordination Officer, through District Officer Agriculture (Extension), within a period to be specified in the notification, will be considered:

Provided that such period shall not be less than 30 days from the date of issue of the notification.

4. **Declaration of notified area.**---(1) After the expiry of the period specified in the notification under section 3 and after considering such objections and suggestions as may be received before the expiry of the specified period, Government may, by notification and in any other manner that may be prescribed, declare the area notified under section 3 or any portion thereof to be a notified market area for the purposes of this Act and specify the agricultural produce or the livestock produce or both over which control is to be exercised in that area.

(2) Government may, at any time by notification, declare its intention to exclude any area which has already been declared as a notified market area and also to include or re-include any area and in doing so the procedure laid down in section 3 and sub-section (1) of this section shall be followed.

(3) After the date of issue of such notification and on the establishment of a market committee under section 7, no other authority, notwithstanding anything contained in any other law entitling such other authority to establish a agriculture produce market, and no person for himself or on behalf of another person unless exempted by rules made under this Act, shall, within the notified market area, set-up, establish or use any place for the purchase and sale of the agricultural produce or livestock produce or purchase, sell, store or process such agricultural produce or livestock produce, as the case may be, except under and in accordance with the terms and conditions of a licence granted under the provisions of this Act:

Provided that a licence shall not be required by a grower who either himself or through a bona fide agent sells his own agricultural produce or the produce of his tenant or, as the case be, livestock produce, or by a person who purchases any agricultural produce or livestock produce for his private or domestic use:

Provided further that in the case of a market committee established for the first time under this Act, no person shall be deemed to have violated this provision if he has made an application to the market committee for grant of licence.

(4) No person shall, within the market, store, purchase, sell or in any other manner, deal with any thing which is not declared as agricultural produce or livestock produce, as the case may be.

5. **Market committee to issue and renew licences.**---Subject to such rules as Government may make in this behalf, the market committee concerned shall be the authority to issue licence to a dealer, under this Act and to renew such licence.

6. **Grant of licence, its suspension, cancellation, etc.**---(1) Any person who wishes to work as a dealer in a notified market area may apply on the prescribed form to the market committee concerned for a licence or for the renewal of the licence which shall be granted or renewed, as the case may be, for such period, in such form, on such conditions and on payment of such fee not exceeding Rs.1000/- per annum as may be prescribed:

Provided that no fee shall be charged from a dealer who is a Co-operative Society registered under the Co-operative Societies Act, 1925.

(2) Licence under this Act shall not be granted to a person who-

- (a) is a minor; or
- (b) is found to be of unsound mind by a court of competent jurisdiction; or
- (c) is a declared insolvent by a court of competent jurisdiction; or
- (d) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or any other offence involving moral turpitude or an abatement of or attempt to commit any such offence by a court of competent jurisdiction:

Provided that this disqualification will not operate if a period of three years has elapsed since the completion of the sentence imposed on any person in respect of any such offence.

(3) If any person carrying on business of a dealer in a notified market area on the date of issue of notification under section 4 fails to apply for a licence within thirty days from the date of issue of such notification, the market committee may refuse to grant him a licence unless he deposits late fee as specified below in cash with the market committee:

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|-------|-------------------------------|-----------|
| (i) | for delay up to 3 months | Rs.1000/- |
| (ii) | for delay up to 6 months | Rs.2000/- |
| (iii) | for delay exceeding 6 months. | Rs.3000/- |

(4) If a person works as a dealer in a notified market area without a licence required under this section, he shall be liable to imprisonment for a term which may extend to three months or fine which may extend to three thousand rupees or with both.

(5) The market committee may, on being satisfied that there has been a breach of any of the conditions of a licence, by an order in writing, cancel or suspend such licence and may also direct that such licence shall not be renewed for such period not exceeding four months for a first breach and not exceeding nine months for a second or subsequent breach as may be specified in that order:

Provided that no such order shall be passed without giving the licensee an opportunity to show cause within 15 days from the date of issue of the show cause notice.

(6) Any person aggrieved by an order passed under sub-section (5) may, at any time within one month of the passing of the order, appeal to the District Officer Agriculture (Extension) against such order. The order of the District Officer Agriculture (Extension), on appeal, shall be final.

7. Establishment of market committee.---Government shall, by notification, in the official Gazette, establish a market committee for every notified market area.

8. Constitution of the market committee.---(1) A market committee shall consist of ten or seventeen members as Government may in each case determine.

(2) The market committee shall be constituted by Government in the following manner:

- (a) Where a committee consists of ten members,-
 - (i) one member shall be appointed from amongst the employees of Government in the field of Agriculture (Extension);
 - (ii) five members shall be appointed from amongst the growers of the notified market area concerned;
 - (iii) two members shall be appointed from amongst persons licensed under section 6 in respect of the notified market area concerned;
 - (iv) one member shall be appointed from amongst weighmen or brokers in the notified market area concerned licensed under section 9; and
 - (v) one member shall be appointed from amongst consumers resident in the notified market area concerned, who is not a dealer or a grower; and

- (b) where the committee consists of seventeen members,-
- (i) one member shall be appointed from amongst the employees of Government in the field of Agriculture (Extension);
 - (ii) nine members shall be appointed from amongst growers of the notified market area concerned;
 - (iii) five members shall be appointed from amongst persons licensed under section 6 in respect of the notified market area concerned;
 - (iv) one member shall be appointed from amongst weighmen, brokers or palladars in the notified market area concerned licensed under section 9; and
 - (v) one member shall be appointed from amongst consumers resident in the notified market area concerned, who is not a dealer or a grower.

(3) If a question arises as to whether any person is or is not a grower for the purposes of this Act, the decision of the District Co-ordination Officer concerned shall be final.

(4) Not more than one person related to each other as father, son, brother, uncle, brother in-law, son in-law and their ascendants and descendants shall be appointed as a member of the same market committee.

(5) No act done by a market committee shall be called in question on the ground merely of the existence of any vacancy, or any defect in the constitution of the market committee.

9. Duties of the market committee.---(1) The market committee shall enforce the provisions of this Act and the rules and bye-laws made thereunder in the notified market area and when so required by Government, shall establish an agriculture produce market therein providing such facilities for persons visiting it in connection with the purchase, sale, storage, weighment, pressing and processing of agricultural produce or purchase and sale of livestock produce, as the case may be, as Government may, from time to time, direct.

(2) Subject to such rules as Government may make in this behalf, a market committee shall issue licences to brokers, weighmen, measurers, surveyors, warehousemen, changers, tokriwalas and rehriwalas for carrying on their occupation in the market area in respect of agricultural produce or livestock produce, as the case may be, and to renew, suspend or cancel such licence.

(3) No broker, weighman, measurer, surveyor, warehouseman, changer, tokriwala and rehriwala shall, unless duly authorised by licence, carry on his occupation in a notified market area in respect of agricultural produce or livestock produce, as the case may be.

10. **Term of office of members.**---Subject to the provisions of section 11 and 13, every member shall hold office for a period of five years from the date of his appointment and if on the expiry of this period, no person is appointed to succeed him, such member shall, unless Government otherwise directs, continue to hold office until his successor is appointed.

11. **Removal of members.**---Government may at any time, by notification, remove any member if such member has, in his opinion, been guilty of misconduct or neglect of duty or has been wrongly or improperly appointed or has lost the qualification on the strength of which he was appointed or whose continuance as a member in the opinion of Government is not desirable.

12. **Election of Chairman and Vice Chairman.**---Every market committee shall elect from amongst its members a Chairman and a Vice-Chairman:

Provided that the Chairman shall be elected only from amongst the members belonging to growers.

13. **Filling of vacancies.**---If any vacancy of a member of a market committee occurs due to his death, resignation, transfer or retirement or is caused by the removal of any member in accordance with the provision of section 11, Government may appoint any person as a member to fill such vacancy in accordance with the provision of section 8:

Provided that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had he held the office for the full period allowed under section 10.

14. **Incorporation of committees.**---Every market committee shall be a body corporate by such name as Government may specify in the notification establishing it, shall have perpetual succession and a common seal, may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in, or has been acquired by, it, and to contract and to do all other things necessary for the purpose for which it is established:

Provided that no market committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specially convened for the purpose by a majority of not less than three-fourth of the members of the market committee concerned.

15. **Sub-committee and delegation of powers.**---(1) A market committee may appoint a sub-committee consisting of not less than two and not more than five of its members for the conduct of any work or to report on any matter.

(2) A market committee may delegate to or withdraw from any one or more of its members or sub-committees such of its powers or duties and in such manner as may be prescribed.

16. Appointment of staff, etc.---(1) Subject to such rules as may be made by Government in this behalf, the market committee may employ such persons as may be necessary for the management of the agriculture produce market including seasonal and part-time staff. The appointments, salaries and other service conditions of the employees of market committee, including allowances, contribution to any provident fund etc., if any, shall be governed by the rules framed by Government. The appointment of seasonal and part-time staff shall be made in accordance with budgetary provision of the market committee concerned.

(2) Government may provide guidelines to determine terms and conditions of the employees of market committee and the market committee shall follow the guidelines so provided.

(3) Subject to such rules as may be made by Government, every employee of a market committee shall be liable to be transferred for service in any market committee of the Province.

(4) The market committee shall, in case any Government servant is working with the Committee on deputation, pay to Government such contribution towards pension and leave allowances of such servant as may be payable under the regulations applicable to that Government servant.

17. Employees and members to be public servants.---Every person employed by a market committee and every member thereof shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

18. Execution of contracts.---Every contract entered into by a market committee shall be in writing and shall be signed on behalf of the market committee by the Chairman and two members, or, if for any reason the Chairman is unable to act, by the Vice-Chairman and two members of the market committee and shall be sealed with the common seal of the market committee.

19. Levy of fees.---A market committee may, subject to such rules as may be made by Government in this behalf, levy fees, not exceeding the maximum rates prescribed on the agricultural produce and livestock bought or sold by or through a dealer in the notified market area and no transaction of agricultural produce or livestock in such a notified market area shall be made without payment of such fee:

Provided that-

- (a) no fee shall be leviable in respect of any transaction in which delivery of the agricultural produce or livestock produce bought or sold is not actually made;

- (b) no fee shall be leviable on a person who is not a party to a transaction;
- (c) no fee shall be levy-able on an agricultural produce in respect whereof a fee has already been charged as a result of sale or purchase, if it is subsequently transacted in the same notified area in the form of a by-product in consequence of any manufacturing process.

20. Market Committee Fund.---(1) All money received by a market committee shall be deposited into a fund to be called the Market Committee Fund. All expenditure incurred by a market committee under or for the purposes of this Act shall be defrayed out of the Market Committee Fund, hereinafter referred to as 'the Fund' and any surplus remaining after meeting such expenditure shall be invested in such manner as may be prescribed.

(2) Every market committee shall, out of its Fund, pay to Government, the cost of any special or additional staff employed by Government in consultation with the market committee for giving effect to the provisions of this Act in the notified market area.

(3) Government shall determine the cost of such special or additional staff and shall where the staff is employed for the purposes of more market committees than one, apportion such cost among the committees concerned in such manner as it thinks fit. The decision of Government determining the amount payable by any market committee shall be final.

(4) Every market committee shall, out of its Fund, pay to Government such percentage of its income as may be prescribed, to be credited to a separate account to be maintained and operated upon by Government for purposes common to, or in the overall interests of, the market committees.

(5) The Fund shall be audited in such manner as may be prescribed.

21. Purposes for which the Fund may be expended.---Subject to the provisions of section 20, the Fund shall be expended for the following purposes:-

- (i) acquisition of land for the establishment of market or markets;
- (ii) construction and repair of buildings which are necessary for the purposes of establishing such agriculture produce markets and for the health, convenience and safety of the persons using them;
- (iii) collection and dissemination of information regarding all matters relating to marketing in respect of the agricultural produce or livestock produce and propaganda in favour of their improvement and thrift;

- (iv) providing comforts and facilities, such as light, sanitation, shelter, shade, parking accommodation and water for the persons, draught cattle, vehicles and pack animals coming to the market and similar other purposes;
- (v) provision of facilities such as cleaning sets, plants or grading, standardization, packing and processing of agricultural produce and likewise requisite facilities for livestock produce, where necessary;
- (vi) construction of cold storage, warehouse and godown for the benefit of growers;
- (vii) establishment of feeder markets;
- (viii) provision and maintenance of standard weights and measures;
- (ix) pay, leave salary, compassionate and medical allowances, honoraria and contributions towards leave allowances or provident fund of the persons employed by market committees;
- (x) payment of loans that may be raised for the purposes of the market and the provision of sinking fund in respect of such loans;
- (xi) expenses incurred in auditing the account of market committee;
- (xii) payment of travelling allowances to the members and employees of market committees as prescribed;
- (xiii) payment of allowances and honoraria to the authority of the superseded market committee;
- (xiv) contribution towards the Fund subject to rules framed thereunder;
- (xv) payment of property tax;
- (xvi) payment of other taxes leviable under any law for the time being in force;
- (xvii) engagement of lawyer where needed;
- (xviii) subject to previous sanction of Government-
 - (a) purchase of load carrying vehicles/refrigerated trucks for bringing agricultural produce or livestock produce of the growers to the agriculture produce markets for exporting purposes,

- (b) purchase of agricultural implements and machinery and gypsum of the value not exceeding twenty five thousand rupees for distribution amongst growers of the market area;
- (c) maintenance and improvement of the market including construction of stores, platforms, small pullis, culverts and roads within the agriculture produce market;
- (xix) holding of melas, fairs, exhibitions and shows for publicity of agricultural produce or livestock produce and propaganda amongst growers for improved production;
- (xx) advance of loans to other market committees in the district for carrying out development projects, with the previous sanction of Government;
- (xxi) training of members and staff of market committee;
- (xxii) purchase and sale of essential agricultural commodities; and
- (xxiii) any other purpose that may be declared by notification by Government for improvement of agricultural produce or livestock produce, as the case may be, and its marketing, where necessary in the general interest.

22. **Levy of surcharge on loss.**---(1) Every person shall be liable for the loss, waste or misapplication of any money or property belonging to a market committee, if such loss, waste or misapplication is proved to the satisfaction of the District Co-ordination Officer or any other officer specially empowered in this behalf by Government to be the direct consequence of such person's neglect or misconduct in the performance of his duties while being a member of a market committee.

(2) The person against whom an order under sub-section (1) is made may, within one month of the issue of such order, appeal to Government which may modify or set aside the order.

23. **Trade allowance.**---No trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act shall be made or received in a notified market area by any person in any transaction in respect of agricultural produce or livestock produce and no civil court shall, in any suit or proceeding arising out of any such transaction, recognise any trade allowance not so prescribed.

24. **Arbitration Board.**---(1) Government may, by notification direct that all or any of the disputes, other than a dispute to which all the parties are dealers, arising in notified market area, and relating to such matters connected with agricultural produce as may be prescribed shall be referred to a Board of Arbitrators, hereinafter referred to as 'the Board', constituted under this Act in such manner, for such period and subject to such provisions as may be prescribed.

(2) The Board shall consist of a Chairman and such number of members as Government may appoint.

(3) The Board shall receive and record evidence, and shall have power to administer oaths to parties and witnesses and on requisition in writing signed by the Chairman of the Board, the Judicial Magistrate authorized by the Session Judge having jurisdiction in this behalf shall issue necessary processes for the attendance of witnesses and the production of documents and material objects required by the Board, and may enforce the said processes as if they were processes for attendance and for production before himself.

(4) No member of the Board, who has a direct interest in the matter under reference, shall take part in the consideration or discussion of, or vote on any question with respect to the said matter.

(5) The decision of the Board shall be made by majority of votes, and in case of equality of votes the Chairman of the Board shall have a second or casting vote.

(6) The decision of the Board shall be-

(a) enforced by a Civil Court having jurisdiction as if it were a decree to that court; and

(b) final and shall not be questioned in any Court.

25. Bar of suit in absence of notice.---No suit shall be instituted against any market committee or any member or employee thereof or any person acting under the direction of any such market committee, member, or employee for anything done or purporting to be done under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a market committee, delivered or left at its office, and, in the case of any such member, 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:

Provided that where a suit instituted without delivering or leaving such notice, or before the expiration of the said period of two months, or the plaint does not contain a statement that such notice has been so delivered or left, the plaintiff shall not be entitled to any costs, if any settlement as regard the subject matter of the suit is reached or the market committee, any member, employee or person referred to above concedes the plaintiff's claim within the period of two months from the date of the institution of the suits.

26. Power to borrow.---(1) A market committee may, with the sanction of Government, raise money required for carrying out the purposes for which it is established on the security of any property vested in and belonging to the market committee on such conditions and subject to such rules as may be prescribed.

(2) A market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing a agriculture produce market and for the proper discharge of the duties and functions imposed on it by or under this Act, obtain loan from Government or from any other market committee on such conditions and subject to such rules as may be prescribed.

27. Power to annul proceedings.---(1) Government may by order in writing call for the record of a market committee and after giving a reasonable opportunity of showing cause, annul any proceeding of a market committee or its sub-committees which it considers not to be in conformity with law or rules or bye-laws and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to lead to breach of peace, or to cause injury or annoyance to public or to any class or body of persons or is likely to affect adversely the interest of the market committee or of growers or dealers transacting business in agricultural produce and livestock or of any class of functionaries working in the notified market area.

(2) An officer authorised by Government may also by order in writing and after giving a reasonable opportunity of showing cause, suspend within the limits of the notified market area, the execution of any resolution or order of a market committee or its sub-committees or prohibit the doing within these limits, of any act which is being done or is about to be done in pursuance of or under cover of this Act or any rules or bye-laws made thereunder, if in his opinion the resolution, order or act is in excess of the powers conferred by law or is likely to lead to breach of peace or to cause injury or annoyance to public or to any class or body or persons, or is likely to affect adversely the interest of the market committee or of growers or dealers transacting business in agricultural produce or livestock produce or of any class of functionaries working in the notified area concerned.

(3) The officer making an order under sub-section (2) shall forthwith forward a copy thereof, with a statement of reasons for making it and the explanation, if any, of the marked committee concerned to Government who and Government thereupon rescind the order or direct that it shall continue in force with or without modification, permanently, or for such period as it thinks fit.

28. Supersession of market committee.---(1) If in the opinion of Government a market committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, Government may, by notification, supersede such committee:

Provided that before issuing a notification under this sub-section, Government shall give a reasonable opportunity to the market committee for showing cause against the proposed supersession and shall consider the explanations and objections, if any, furnished by the market committee.

(2) Upon the publication of a notification under sub-section (1) the following consequences shall ensue:

- (a) all the members including the chairman and vice-chairman of the market committee shall, as from the date of such publication, be deemed to have ceased to be members of the market committee;
- (b) all assets of the market committee shall vest in Government and Government shall be liable for all the legal liabilities of the market committee subsisting at the date of its supersession up to the limit of the said assets.

(3) Government may at its discretion by order constitute either a new market committee as provided under section 7 or appoint such other authority for carrying out the functions of the market committee as it may deem fit.

(4) Where Government has made an order under sub-section (3), the assets and liabilities defined in sub-section (2)(b) vesting in Government at the date of such order shall be deemed to have been transferred on the date of such order to the new committee or, as the case may be, the authority appointed as aforesaid.

(5) Where Government by an order under sub-section (3) has appointed an authority other than a new market committee for carrying out of the functions of the superseded market committee, it shall by notification determine the period not exceeding 90 days for which such authority shall act:

Provided that the term of office of such authority may be terminated earlier if Government, for any reason, considers it necessary.

(6) At the expiry of the term of office of such authority, a new market committee shall be constituted and upon such constitution the assets and liabilities vesting in the authority thereby superseded, shall be deemed to have been transferred to the new market committee.

29. Acquisition of land.---Where any land is required by a market committee for carrying out any of its functions under this Act, it shall obtain the prior approval of Government before approaching the collector of the district concerned for acquisition of land under the Land Acquisition Act, 1894 (Act No. I of 1894).

30. Encroachment.---(1) If any person makes an encroachment upon movable or immovable property or on, over or under a road, drain, thara or open space belonging to a market committee without its written permission, the market committee in addition to instituting criminal proceedings against him may by notice require the person responsible for any such encroachment to remove the same within a period of seven days and if the encroachment is not removed within such period, the market committee may cause the encroachment to be removed through its own agency and the cost incurred thereon by the market committee shall be recoverable from the person making the encroachment as arrear of land revenue.

(2) Notwithstanding anything contained in any other law, no compensation shall be payable for any encroachment removed or caused to be removed under this section.

31. **Training Institution.**---(1) Government may set up a training institute for the training of members and the staff of market committees, dealers, processors and other market functionaries and for the promotion of research in agricultural or livestock produce, its marketing and allied subjects and may by rules provide-

- (a) for the administration of training institute;
- (b) for the compulsory training of members and staff;
- (c) for the courses to be studied; and
- (d) for the holding of examinations and the award of diplomas and certificates to successful trainees.

(2) Every market committee shall pay towards the cost and maintenance of the institution set up under sub-section (1) such amount as Government may from time to time determine.

32. **Recovery of dues.**---All sums due from a market committee to Government may be recovered in the same manner as arrears of land revenue are recoverable.

(2) Any amount due to a market committee shall be recoverable as arrears of land revenue.

33. **Emergency powers.**---If at any time Government is satisfied that a situation has arisen in which the purposes of this Act cannot be carried out in accordance with the provision thereof, Government may by notification dispense the market committee and—

- (a) declare that the functions of the market committee shall to such extent as may be specified in the notification be exercised by Government or such person or persons as it may direct; and
- (b) assume to itself all or any of the powers vested in or exercisable by any market committee, and such notification may contain such incidental and consequential provision as may appear to Government to be necessary or desirable for giving effect to the notification.

34. **Penalties.**---(1) Whoever contravenes the provisions of section 4, shall, on conviction, be punishable with fine which may extend to one thousand rupees and in case of continuing contravention, with fine which, in addition to such fine as aforesaid, may extend to one hundred rupees for every day, after the date of first conviction, during which the contravention is continued.

(2) Whoever contravenes the provision of sub-section (3) of section 9, shall, on conviction, be punishable with fine which may extend to one hundred rupees and in the case of continuing contravention with fine which, in addition to such fine as aforesaid, may extend to ten rupees for every day, after the date of first conviction during which the contravention is continued.

(3) Whoever contravenes the provisions of sections 19 and 23 or the rules made thereunder shall on conviction be punishable with fine which may extend to one thousand rupees.

35. Power to make rules.---(1) Government may either generally or specially for any notified market area or areas, make rules for carrying out all or any of the purposes of this Act.

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

- (i) appointment and removal of members of a market committee;
- (ii) power to be exercised and the duties to be performed by a market committee;
- (iii) election of the Chairman and Vice-Chairman of a market committee and their powers and term of office;
- (iv) filling of casual vacancies in the offices of members or in the office of Chairman or Vice-Chairman of a market committee;
- (v) time, place and manner in which a contract between buyer and seller is to be entered into and money is to be paid to the seller;
- (vi) management of the market, maximum fee which may be levied by market committee in respect of agricultural produce or livestock produce bought or sold by licensees in the notified market areas, and the recovery and disposal of such fee;
- (vii) issuance, by market committee, of licences to brokers, weigh-men, measurers, surveyors, warehousemen, changers, tokriwalas and rehriwalas, the form in which and the conditions under which such licences shall be issued or renewed and the fee, if any, to be charged therefor;
- (viii) the place or places at which agricultural produce or livestock produce shall be weighed, the kind and description of the scales, weights and measures which alone may be used in a transaction in a notified market area;

- (ix) inspection, verification, regulation, correction and confiscation of scales, weights and measures in use in a notified market area, if found defective;
- (x) trade allowances which may be made or received by any person in any transaction in agricultural produce or livestock produce in a notified market area;
- (xi) prohibition of brokers from acting in the same transaction on behalf of both the buyer and the seller of agricultural produce or livestock produce, as the case may be;
- (xii) provision of accommodation for storing any agricultural produce or livestock produce brought into the market;
- (xiii) preparation of plans and estimates for works proposed to be undertaken partly or wholly at the expense of market committees, and the grant of sanction to such plans and estimates;
- (xiv) forms in which the accounts of market committee shall be kept, the audit and publication of such accounts and the charges, if any, to be made for such audit;
- (xv) management and regulation of provident fund which may be established by a market committee for the benefit of its employees;
- (xvi) preparation and submission for sanction of annual budget, and reports and returns to be furnished by market committee;
- (xvii) investment and disposal of the surplus funds of a market committee;
- (xviii) prescribing any matters in respect of which fees shall be payable under this Act and fixing the amount of such fees and the mode of payment and recovery thereof;
- (xix) imposing on persons licensed under section 6, the duty of making returns to market committee at regular intervals of transactions of sale and purchase affected by them or at their place of business, and of producing accounts for inspection and furnishing information when called upon by an authority duly empowered and prescribing the form and mode of verification of, and the particulars to be entered in such returns as well as the nature of such information; and
- (xx) determining-
 - (a) conditions of service of the employees of market committees and their grades of pay;

- (b) schedule of the staff that may be employed by market committee;
- (c) principles to be followed in making appointments to various posts under market committees and their appointing authorities;
- (d) matters relating to transfer, retirement, training, medical aid, travelling and other allowances, leave, conduct of servants and terms and conditions of service.

36. **Bye-Laws.**---(1) Subject to any rules made by Government under section 35, a market committee may, in respect of the notified market area under its management, make bye-laws for-

- (i) regulation of business;
- (ii) conditions of trading;
- (iii) delegation of powers, duties and functions of sub-committees, if any, appointed under section 15;
- (iv) remuneration of different functionaries not specifically mentioned in this Act working in the notified market area and rendering any service in connection with the sale or purchase of agricultural produce or livestock produce as the case may be;
- (v) such other matters as are in the opinion of Government necessary or expedient to be provided for through bye-laws.

(2) The power to make bye-laws under this Act is subject to the condition of the bye-laws being made after the previous publication in such manner as may be prescribed.

(3) The bye-laws shall be submitted to Government for approval and shall not be valid unless and until approved by Government.

(4) Government may modify the bye-laws or return the same to the market committee for being re-framed.

(5) The by-laws, as approved by Government, shall be published in the official Gazette and shall take effect from the date of such publication.

(6) Government may cancel the bye-laws of a market committee and thereupon the bye-laws shall cease to have effect.

37. Trial of offences.---(1) No offence made punishable under this Act or any rules or bye-laws made thereunder shall be tried by a court inferior to that of an Judicial Magistrate of the First Class.

(2) Prosecutions under this Act may be instituted by a person duly authorised by a resolution of the market committee in this behalf.

(3) All fines recovered from an offender shall be credited to the Fund.

(4) A market committee may, by a resolution, compound any offence and may exercise this power at anytime before directing prosecution, or where a prosecution has been instituted, before the case is finally disposed off by the trial court.

38. Validation of continuance of functions of certain authorities and officers.-- Notwithstanding anything contained in this Act, all authorities and officers who, immediately before the enforcement of this Act, were exercising functions of market committee under the law being repealed under section 39 shall continue to exercise their respective functions under this Act till the market committees are reconstituted:

39. Repeal.---(1) The Agricultural Produce Markets Act, 1939 (V of 1939) is hereby repealed.

(2) Notwithstanding the repeal of the Act under sub-section (1), everything done action taken, obligation, liability, penalty or punishment incurred, licence granted, inquiry or proceedings made, committees appointed or person appointed or authorised, jurisdiction or power conferred, rules or bye-laws made and order or notification issued under any of the provisions thereunder shall, if not inconsistent to the provision of this Act, continue and so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Act.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF
NORTH-WEST FRONTIER PROVINCE.**

**MUHAMMAD MUSHTAQ,
SECRETARY,
Provincial Assembly of N.-W.F.P.**