

President's Act No. 28 of 1968

THE WEST BENGAL MARKETS REGULATION ACT, 1968

[31st October, 1968.]

Enacted by the President in the Nineteenth Year of the
Republic of India.

*An Act to provide for the regulation of markets in the
State of West Bengal in which agricultural produce is
bought or sold.*

In exercise of the powers conferred by section 3 of the
West Bengal State Legislature (Delegation of Powers) Act,
1968, the President is pleased to enact as follows:—

1. (1) This Act may be called the West Bengal Markets Regulation Act, 1968. Short title,
extent and
comm-
encement.

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

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

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

(1) "agricultural produce" means any produce of agriculture, horticulture, pisciculture, forestry or animal husbandry or any other produce declared by the State Government, by notification in the Official Gazette, to be agricultural produce for the purposes of this Act, and includes any such produce which has been wholly or partly processed;

Definitions

(2) "broker" means an agent whose ordinary course of business is to negotiate and make contracts on payment of commission for the purchase or sale of agricultural produce on behalf of his principal, but does not include a servant of such principal engaged in negotiating or making such contracts;

(3) "Calcutta" has the same meaning as in the Calcutta Municipal Act, 1951;

- (4) "commission agent" means a person who buys and sells agricultural produce for any person, keeps it in his custody and controls it during the process of its sale or purchase, and collects payment therefor from the buyer and pays it to the seller, and receives by way of remuneration a commission or percentage upon the amount involved in each transaction;
- (5) "Director" means the Director of Agriculture, West Bengal, and includes the Additional Director of Agriculture (Marketing), West Bengal;
- (6) "District Magistrate" means the chief officer charged with the executive administration of a district in criminal matters by whatever designation called, and includes an Additional District Magistrate;
- (7) "Inspecting Officer" means an Inspecting Officer appointed under section 23;
- (8) "licensing authority" means the authority referred to in section 3 for issuing a licence under that section;
- (9) "market" means any place at which people ordinarily assemble, either daily or on fixed days for the purchase or sale of agricultural produce, irrespective of whether any other commodity is purchased or sold in such place or not, and includes any place at which any fair or *mela* is held for more than three consecutive days:

Provided that the State Government may, if it so thinks fit in the public interest, by notification in the Official Gazette, declare any such place not to be a market and thereupon such place shall not be deemed to be a market for the purposes of this Act;

- (10) "market committee" means a market committee constituted under sub-section (1) of section 9 and includes a special market committee constituted under the proviso to that sub-section;
- (11) "measurer" means a person whose business is to measure a consignment of agricultural produce for sale;
- (12) "prescribed" means prescribed by rules made under this Act;
- (13) "proprietor" in relation to a market includes the lessee thereof;
- (14) "rent", in relation to a market, means anything lawfully payable in cash or in kind to the proprietor of the market for the use or occupation of any land, with or without any structure thereon, in the market;

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- (15) "standard weight" and "standard measure" have the same meanings respectively assigned to them in the West Bengal Standards of Weights and Measures (Enforcement) Act, 1958;
- (16) "Sub-divisional Magistrate" means any Magistrate in charge of a sub-division of a district and includes an Additional Sub-divisional Magistrate;
- (17) "trade allowance" means anything realised in cash or in kind by the purchaser from the seller in any transaction relating to agricultural produce either by deduction from the price agreed upon or otherwise;

Explanation.—In this clause "purchaser" includes a commission agent;

- (18) "warehouseman" means a person whose business is to store agricultural produce in any building, structure or enclosure on behalf of persons depositing such produce; and
- (19) "weighman" means a person who, in the ordinary course of business, is engaged in the weighing of agricultural produce in connection with a transaction of sale or purchase thereof.

3. After six months from the commencement of this Act in any area—

Licence
for pro-
prietors of
markets.

- (a) no person shall establish a new market in such area, and
- (b) no proprietor of an existing market in such area shall continue to run such market,

except under and in accordance with the terms and conditions of a licence issued to him in this behalf by such authority, in such form and subject to such terms and conditions as may be prescribed:

Provided that—

- (i) the State Government may, by notification in the Official Gazette, extend the said period of six months to such extent as may be specified in the notification in respect of any area or any class of markets;
- (ii) it shall not be necessary for any local authority or market committee to take out any licence under this section in respect of any market of which such local authority or market committee is the proprietor.

4. An application for a licence under section 3 shall be made to the licensing authority in such form and containing such particulars and shall be accompanied by such fee, not exceeding two hundred rupees, as may be prescribed.

Applica-
tion and
fee for
licence.

Period of
licence and
renewal.

5. A licence issued under section 3 shall be valid for a period of one year from the date of its issue and may, from time to time, be renewed for a period not exceeding one year at a time by the licensing authority on application made in this behalf in such manner as may be prescribed and on payment of a fee equal to one-half the amount of the fee payable for the issue of the licence in the first instance.

Liability
for taking
or renewing
licence.

6. The person establishing a new market or the proprietor of an existing market actually running such market shall be responsible for taking out or renewing under section 3 or section 5, as the case may be, the licence required in respect of the market.

Refusal to
issue or
renew
licence in
respect of
a market.

7. The licensing authority may refuse—

- (a) to issue a licence under section 3 in respect of any market which is proposed to be established or is existing on the date of application for the licence, if such market does not satisfy the requirements of this Act and the rules made thereunder; or
- (b) to renew the licence under section 5 in respect of any market if the terms and conditions of the existing licence are not complied with to the satisfaction of the licensing authority:

Provided that in the case of a market existing on the date of application for the licence, the licensing authority may issue an interim licence for such period and on such terms and conditions as may be prescribed so as to enable the proprietor thereof to comply with the requirements of this Act and the rules made thereunder.

Duties of
pro-
prieters of
markets.

8. It shall be the duty of the proprietor of every market—

- (1) to maintain in such manner as the market committee may, having regard to local conditions, direct, the structures, pathways and open spaces in the market; and
- (2) to make in the market such arrangements as the market committee may, having regard to local conditions, direct—
 - (a) for conservancy and drainage,
 - (b) for the supply of drinking water for the persons and animals using and used in the market, and
 - (c) generally for the safety and convenience of the persons, animals and vehicles using and used in the market.

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9. (1) The State Government may, by notification in the Official Gazette, constitute for such area as may be specified in the notification a market committee which shall in that area exercise and perform the powers and duties conferred and imposed on a market committee by or under this Act: Market committee.

Provided that if, in respect of any market, the State Government thinks fit so to do in the public interest, it may at any time, by notification in the Official Gazette, constitute a special market committee for such market.

(2) Notwithstanding anything contained in sub-section (1), when a special market committee referred to in the proviso to that sub-section is constituted for any market, such special market committee shall, to the exclusion of any other market committee, exercise and perform in respect of such market the powers and duties conferred and imposed on a market committee by or under this Act.

10. Every market committee shall be a body corporate by such name as the State Government may specify in the notification constituting the market committee, shall have perpetual succession and a common seal, may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property, movable or immovable, to enter into contracts and to do all such things as may, from time to time, be necessary for the purpose of carrying out its functions under this Act: Incorporation of market committees.

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

11. (1) Every market committee shall consist of twelve members as follows:— Members of market committee.

(a) an officer of the State Government who shall be the President of the market committee;

(b) an officer of the Directorate of Agriculture, West Bengal, having jurisdiction over the area for which the market committee is constituted, who shall be the Secretary of the market committee;

(c) one person to represent the members of any co-operative marketing society or societies holding licence or licences for transacting business in any market in the area over which the market committee has jurisdiction or, if there is no such marketing society in such area, to represent the members of any other co-operative society or societies functioning in such area;

Explanation.—In this clause—

- (i) “co-operative society” means a co-operative society registered under the Bengal Co-operative Societies Act, 1940;
- (ii) “co-operative marketing society” means a co-operative society which has as its principal object the object of promotion of sale or purchase of agricultural produce;
- (d) two, persons, one to represent the proprietors of markets in the area over which the market committee has jurisdiction and the other to represent the local authority in such area;
- (e) five persons to represent the growers of agricultural produce in the area over which the market committee has jurisdiction;

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Explanation.—In this clause “grower of agricultural produce” includes a person who produces by himself or by hired labour or otherwise, or receives under a tenancy-agreement, any agricultural produce, but does not include a person who acts as a commission agent or dealer in respect of such agricultural produce;

- (f) two persons to represent the licensed vendors using the markets in the area over which the market committee has jurisdiction.

(2) The members of every market committee shall be appointed by the State Government in consultation with the Director:

Provided that the representatives mentioned in clauses (c), (d), (e) and (f) of sub-section (1) shall, in the case of a market committee for any area outside Calcutta, be appointed after considering also the recommendations of the District Magistrate.

Disquali-
fication for
member-
ship of a
market
committee.

12. No person who—

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

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

Term of
office.

13. The members of every market committee shall hold office for such term, not less than three years, and on such terms and conditions as may be prescribed:

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

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

(2) Every such person shall hold office so long only as the member in whose place he is appointed would have held office if the vacancy had not occurred.

15. The State Government may, by notification in the Official Gazette, remove any member of a market committee from his office as such, if such member has, in the opinion of the State Government, been guilty of misconduct or neglect of duty or become disqualified within the meaning of section 12: Removal of member.

Provided that before issuing any such notification in respect of any member of a market committee the State Government shall communicate to him in writing the reasons for the proposed removal and shall give him an opportunity of making his representation, if any, against such removal.

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

17. A market committee may, for the purpose of carrying out its functions under this Act, employ such officers and other employees on such pay and allowances and on such terms and conditions as may be prescribed: Staff of market committee.

Provided that no member of a market committee shall be appointed to be an employee thereof.

18. (1) The duties of a market committee shall be generally to make enquiries or cause enquiries to be made and submit, in Calcutta to the Director and, in any other place, to the District Magistrate, such periodical reports as may be prescribed, on the working of the provisions of this Act and the rules made thereunder and the observance thereof by all persons concerned, in respect of every market within the local limits of its jurisdiction, and in particular to— Duties of market committee.

(a) direct, having regard to local conditions, in what manner the structures, pathways and open spaces in such market shall be maintained and what arrangements shall be made therein for conservancy, drainage and supply of drinking water;

(b) grant or renew licences under section 22 and to make or cause to be made such enquiries as may be necessary for the purpose;

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- (c) administer the Market Committee Fund referred to in sub-section (1) of section 21 and maintain the accounts thereof in the prescribed manner;
- (d) make enquiries or cause enquiries to be made and submit reports, in Calcutta to the Director and, in any other place, to the Sub-divisional Magistrate, on matters relating to the fixation under section 25 of fair and equitable rents or rates of rent in such market when so required by the Director or the Sub-divisional Magistrate, as the case may be, and also on matters, if any, involving contravention of the provisions of this Act or the rules made thereunder in respect of such market;
- (e) keep a set of standard weights and standard measures in each such market against which weighment and measurement may be checked;
- (f) collect and furnish such statistics and information relating to every such market and the marketing of agricultural produce as may be required by the Director, the District Magistrate or any other person authorised by the State Government in this behalf;
- (g) publish and disseminate in the prescribed manner for the benefit of sellers and purchasers the prescribed market information and such other instructions as may be issued by the Director in this behalf;
- (h) settle such disputes between buyers and sellers of agricultural produce or their agents in such manner as may be prescribed;
- (i) promote grading and standardisation of such agricultural produce in such manner as may be prescribed;
- (j) standardise market practices and methods of sale and purchase of agricultural produce in the prescribed manner; and
- (k) perform such other duties as may be entrusted to it from time to time by the State Government or the Director.

(2) Subject to rules made under this Act, a market committee, other than a special market committee referred to in the proviso to sub-section (1) of section 9, may delegate to a sub-committee or sub-committees constituted by it from amongst its members in such manner as may be prescribed, all or any of its functions under this Act in respect of any market or any class of markets over which it has jurisdiction.

Estab-
lishment of
markets
by market
committee.

19. (1) If in the opinion of the State Government it is necessary so to do for the efficient regulation of markets in any area, the State Government may direct the market committee having jurisdiction over such area to establish one or more markets in such area.

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(2) Where the State Government directs a market committee to establish any market, the State Government may acquire any land which, in its opinion, is needed for the purposes of such market under the provisions of the Land Acquisition Act, 1894, or any other corresponding law for the time being in force.

(3) Any land acquired under sub-section (2) shall be transferred by the State Government to the market committee on payment by the market committee of the compensation awarded in accordance with the law under which such land is acquired and of all other charges incurred by the State Government on account of the acquisition, within such period and in such manner as the State Government may, by order, determine and on being so transferred, such land shall vest in the market committee.

(4) A market committee shall maintain and manage any market established by it under this section in accordance with such directions as the Director, in Calcutta and, in any other place, the District Magistrate may, from time to time, issue in this behalf.

20. If at any time the State Government considers it necessary so to do in the public interest, it may, by notification in the Official Gazette, dissolve any market committee and proceed to reconstitute it in accordance with the provisions of section 11 and appoint a person to perform the functions of the market committee, until it is so reconstituted.

Dissolution of market committee.

21. (1) For every market committee, there shall be a fund to be called the Market Committee Fund to which shall be credited all income derived by the market committee from fees for the issue or renewal of licences under section 22 and all other moneys received by the market committee from any source whatsoever including rents or any donation or contribution from a private person and all expenses incurred by the market committee for the purposes of this Act shall be paid out of the said fund.

Market Committee Fund.

(2) Any surplus remaining in the Market Committee Fund after meeting all expenditure under sub-section (1) shall be invested in such manner as may be prescribed.

(3) Expenditure may be incurred from the Market Committee Fund for the following purposes, namely:—

(a) payment of pay, pension, leave allowances, gratuities, compensatory allowances and contributions towards leave allowances, pension and provident fund of the officers and other employees employed by the market committee;

(b) payment of interest on loans, if any, raised by the market committee for carrying out its functions under this Act and provision of a sinking fund for the purpose of repayment of such loan;

(c) acquisition or taking on lease, of any premises or site for the office of the market committee or for carrying out any other purposes of this Act;

- (d) acquisition of a site or sites for any market to be established by the market committee and construction, repair, maintenance and improvement of any buildings or other structures necessary for the purposes of such market;
- (e) construction, repair, maintenance and improvement of any buildings or structures for the office of the market committee or necessary for carrying out any other purposes of this Act;
- (f) maintenance of sets of standard weights and standard measures referred to in section 18;
- (g) collection, furnishing, publication and dissemination of statistics, information and other instructions referred to in section 18;
- (h) meeting all other expenditure incurred by the market committee under or for the purposes of this Act.

(4) The Market Committee Fund shall be operated by the President jointly with the Secretary or another member of the market committee and the accounts thereof shall be kept and audited in such manner as may be prescribed.

Licence for
sellers and
purchasers
for resale of
articles,
etc., in
markets.

22. (1) After six months from the commencement of this Act in any area, no person shall, within any market in such area, carry on business or act as a broker, commission agent, weighman, measurer or warehouseman or sell or purchase for resale any prescribed article or set-up, establish or continue a stall, shed or other structure for storage, sale or purchase for resale of such article, except under and in accordance with the terms and conditions of a licence issued in this behalf under sub-section (2):

Provided that—

- (i) it shall not be necessary for any local authority to take out any licence under this section;
- (ii) the State Government may, in the public interest, by notification in the Official Gazette, exempt such classes of sellers or purchasers for resale as may be specified in such notification from the operation of this section.

(2) Any person desiring to obtain a licence under sub-section (1) may make an application to the concerned market committee in such form as may be prescribed.

(3) On receipt of an application under sub-section (2), the market committee may issue the licence in such form and subject to such terms and conditions as may be prescribed and on payment of fees at such rates, not exceeding such maximum rates as may be prescribed, as the market committee may determine.

(4) Any licence issued under sub-section (3) may be renewed by the market committee from time to time on application made in this behalf by the licensee and on payment of a fee equal to the fee payable for the issue of such licence in the first instance.

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

23. (1) The State Government may appoint as many Inspecting Officers as may be necessary for carrying out the purposes of this Act and may, by general or special order, define the jurisdiction of each such Inspecting Officer. Inspecting Officers.

(2) Subject to the provisions of this Act, an Inspecting Officer shall perform his duties under the superintendence in Calcutta, of the Director, and in any other place, of the District Magistrate.

(3) The duties of an Inspecting Officer shall be—

(a) to make enquiries and submit reports on matters relating to the grant or renewal of licences under section 3 or section 5, as the case may be, when so required by the licensing authority; and

(b) to perform such other duties as may be entrusted to him from time to time by the State Government or the Director.

24. For the purpose of performing the duties under this Act and the rule made thereunder, a market committee or an Inspecting Officer may require the proprietor of any market within its or his jurisdiction or any licensed vendor therein to produce for inspection before any person authorised in this behalf by such market committee or before such Inspecting Officer, as the case may be, any books, accounts, licences or other documents relating to such market or any transaction therein, of which such proprietor or vendor may be in possession and thereupon such proprietor or vendor, as the case may be, shall be bound to comply with such requisition. Power to require production of books, accounts, etc.

25. (1) The proprietor of every market situated within any area in which this Act is brought into force shall, within a period of three months from— Fair and equitable rent in market.

(a) the date on which this Act is brought into force in that area, in the case of markets existing on such date, and

(b) the establishment of the market, in the case of markets established after such date,

submit in Calcutta, to the Director, and in any other place, to the Sub-divisional Magistrate, a statement in the prescribed form showing rents or rates of rent which he may have been charging or proposes to charge from different persons for use of such market and such other information as may be prescribed.

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(2) On the expiry of the period of three months referred to in sub-section (1), the Director or the Sub-divisional Magistrate, as the case may be, shall make or cause to be made such inquiries as may be prescribed and shall,—

(a) where he is satisfied that the rents or rates of rent charged or proposed to be charged by the proprietor are fair and equitable, declare the same to be so, and

(b) where he is not so satisfied, or where no statement is furnished as required by sub-section (1), fix the rents or rates of rent to be charged by the proprietor from different persons for use of the market and declare the same to be fair and equitable,

and shall indicate in such declaration the date from which the declaration shall take effect.

(3) The Director or the Sub-divisional Magistrate, as the case may be, shall cause copies of every declaration made under sub-section (2) to be maintained in his own office and in the office of the market committee concerned and to be published in the market concerned and in such other manner as may be prescribed.

(4) Subject to any orders that may be passed in appeal under section 31, all rents or rates of rent in respect of which a declaration has been published under sub-section (3) shall be deemed to be fair and equitable rents or rates of rent within the meaning of this Act with effect from the date from which such declaration takes effect.

Fees, tolls or other charges and rent in excess of fair and equitable rent not to be received or realised.

26. After a declaration as to the fair and equitable rents or rates of rent fixed under section 25 comes into effect in any market, the proprietor of such market shall not receive or realise from any person using the market, any fees, tolls or other charges, either in cash or in kind for selling any article in such market or any rent in excess of the fair and equitable rent or rate of rent so fixed in respect of any land, stall, shed or other structure in the market.

Prohibition as to trade allowance.

27. No trade allowance other than such as may be prescribed, shall be received or given by any person in any transaction.

Power of Director, District Magistrate and Sub-divisional Magistrate in respect of non-observance of the provisions of section 8.

28. If on application by a market committee or by any Inspecting Officer or on local inspection or inquiry, the Director, the District Magistrate or the Sub-divisional Magistrate is satisfied that any of the duties referred to in section 8 is not being properly performed by the proprietor of any market, he may, after giving the proprietor an opportunity of being heard, issue an order directing the proprietor to take such action within such period as may be specified in the order:

Provided that no such order shall require any proprietor to take any action involving an expenditure in any year of an amount in excess of fifty per cent. of the gross annual rent realisable from such market.

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29. (1) Subject to the provisions of section 32, if the proprietor of any market fails to carry out an order, issued under section 28 within the period specified in the order, the Director, the District Magistrate or the Sub-divisional Magistrate, as the case may be, may cause the order to be given effect to by such other agency as he may think fit so that the cost thereof does not exceed in any year fifty per cent. of the gross annual rent realisable by the proprietor from the market and then recover from the proprietor such cost together with a sum not exceeding fifty per cent. of such cost, by way of penalty.

Power to secure compliance with an order under section 28.

(2) Any sum recoverable from the proprietor of any market under sub-section (1) shall be recoverable as a public demand.

30. (1) Any person aggrieved by an order of the licensing authority under section 7 or of the market committee under section 22 refusing to issue or renew a licence may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority, in such manner and on payment of such fee, not exceeding twenty rupees, as may be prescribed:

Appeal against order of the licensing authority under section 7 or of the market committee under section 22.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible and the decision of the appellate authority thereon shall be final.

31. (1) Any person aggrieved by a declaration made by the Director or the Sub-divisional Magistrate, as the case may be, under sub-section (2) of section 25 may, within thirty days from the date on which such declaration is communicated to him, prefer an appeal in such manner and on payment of such fee as may be prescribed,—

Appeal against declarations made by the Director or the Sub-divisional Magistrate under section 25.

(a) to the State Government, if the declaration is made by the Director, or

(b) to the District Magistrate, if the declaration is made by the Sub-divisional Magistrate:

Provided that the State Government or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if the State Government or the District Magistrate is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the State Government or the District Magistrate, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible and the decision of the State Government or the District Magistrate thereon shall be final.

Appeal
against
orders of
Director or
the District
Magistrate
or the
Sub-
divisional
Magistrate
under
section 28.

32. (1) Any person aggrieved by an order passed by the Director or the District Magistrate or the Sub-divisional Magistrate under section 28 may, within thirty days from the date on which the order is communicated to him, appeal in such manner and on payment of such fee as may be prescribed,—

- (a) to the State Government, if the order is passed by the Director, or
- (b) to the Commissioner of the Division, if the order is passed by the District Magistrate, or
- (c) to the District Magistrate, if the order is passed by the Sub-divisional Magistrate:

Provided that the State Government or the Commissioner of the Division or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if the State Government or the Commissioner of the Division or the District Magistrate is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the the State Government or the Commissioner of the Division or the District Magistrate, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible and the decision of the State Government or the Commissioner of the Division or the District Magistrate thereon shall be final.

Members
and
employees
of market
committee
to be
public
servants.

33. Every member, including the President and the Secretary, and every officer or other employee, of a market committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power of
State
Govern-
ment to
take over
manage-
ment of
market.

34. (1) If in Calcutta, the Director, or, in any other place, the District Magistrate, has reason to believe that the proprietor of any market has wilfully neglected to comply with the terms and conditions of the licence granted to him in respect of such market or has persistently made default in the performance of the duties imposed upon him by or under this Act, the Director or, as the case may be, the District Magistrate may make a report to the State Government recommending that action be taken against such proprietor under this section.

(2) If after considering the report made under sub-section (1) and after giving the proprietor of the market an opportunity of being heard, the State Government is of opinion that it is necessary so to do in the public interest or for the purpose of securing the proper management of the market, the State Government may, by notification in the Official Gazette, take over the management of such market for such period, not exceeding ten years, as may be specified in such notification.

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(3) On and from the date of a notification issued under sub-section (2) taking over the management of a market, and until the expiry of the period specified in such notification, the proprietor of the market shall be divested of the management of the market and he shall not realise any rent in respect of any land, stall, shed, or other structure in the market.

(4) When the State Government takes over the management of a market, it shall, by an order made in this behalf, appoint the market committee having jurisdiction over the area in which the market is situated to conduct the management of the market, in such manner as may be prescribed, under the direction and control, in Calcutta, of the Director and, in any other place, of the District Magistrate.

(5) The market committee shall realise all rents realisable by the proprietor of the market in respect of lands, stalls, sheds or other structures in the market and credit them to an account which shall be kept and audited in the prescribed manner.

(6) All expenses incurred by the market committee in connection with the management of the market, including the expenses of maintenance, repair and improvement of the buildings or structures in the market or the performance on behalf of the proprietor of any of the duties referred to in section 8, shall be paid out of the income derived from the rents realised from the market and the balance of such income, if any, shall be payable by the market committee to the proprietor of the market in such manner and at such intervals as may be prescribed.

(7) Any dispute as to the amount payable under sub-section (6) to the proprietor of the market shall be referred to the State Government, whose decision thereon shall be final.

(8) Immediately on the expiry of the period specified in a notification under sub-section (2), the market committee shall, in the prescribed manner, make over the management of the market to its proprietor.

35. The State Government may, by notification in the Official Gazette, exempt, for reasons to be stated therein, any market established or managed by a market committee from all or any of the provisions of this Act or the rules made thereunder.

Power to
exempt.

36. No suit, prosecution or other legal proceeding shall lie in any court against any officer or any member (including the President and the Secretary) or employee, of a market committee or any other person authorised by or under this Act to carry out any of the purposes of this Act, for anything done or intended to be done in good faith under this Act or any rule made thereunder.

Indemnity.

Certain orders not to be called in question in court.

37. No order under this Act or the rules made thereunder fixing or varying the licence fees or other charges or the rates of such fees or charges shall be called in question in any court.

Penalties.

38. (1) If any person contravenes the provisions of section 3 or section 22, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any person fails to comply with a requisition made under section 24, he shall be punishable with fine which may extend to one hundred rupees.

(3) If any person contravenes the provisions of section 26, he shall be punishable with fine which may extend to one hundred rupees.

(4) If any person contravenes the provisions of section 27, he shall be punishable with fine which may extend to two hundred rupees.

Power to make rules.

39. (1) The State Government may, by notification in the Official Gazette, make, after previous publication, rules for carrying out the purposes of this Act.

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

- (a) the authority by which, the form in which and the terms and conditions subject to which, licences may be issued, under section 3;
- (b) the form and the particulars to be contained in an application under section 4 and the fee by which such application shall be accompanied;
- (c) the manner of making an application under section 5 for renewal of licence;
- (d) the terms and conditions on which an interim licence may be issued under the proviso to section 7;
- (e) the term of office of a member of a market committee and the terms and conditions on which such office may be held;
- (f) the officers and other employees that may be employed by a market committee and the pay, allowances and other terms and conditions of service of such officers and other employees;
- (g) the manner of administering the Market Committee Fund referred to in sub-section (1) of section 21 and of maintaining accounts thereof;

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- (h) the market information referred to in clause (g) of sub-section (1) of section 18 and the manner of publishing and disseminating such market information and other instructions of the Director under that clause;
- (i) the nature of the disputes that may be settled under clause (h) of sub-section (1) of section 18 and the manner of settling such disputes;
- (j) the constitution of sub-committee or sub-committees of a market committee under sub-section (2) of section 18;
- (k) the manner in which the surplus remaining in the Market Committee Fund referred to in sub-section (1) of section 21 shall be invested and the manner in which the accounts of that Fund shall be kept and audited;
- (l) the form in which, the maximum rates of fee on payment of which and the terms and conditions subject to which, licences may be issued under sub-section (3) of section 22;
- (m) the inquiries which may be made under sub-section (2) and the other manner in which a declaration may be published under sub-section (3), of section 25;
- (n) the trade allowance referred to in section 27 which may be received or given under that section;
- (o) the authority to which, the manner in which and the fee on payment of which, an appeal may be preferred under section 30;
- (p) the manner in which and the fee on payment of which an appeal may be preferred under section 31 or section 32;
- (q) any other matter which has to be or may be prescribed.

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

Act to
override
the
provisions
of other
laws, etc.

41. If in any area in which this Act is brought into force, there is any provision of any other law which corresponds to any provision of this Act, such corresponding provision of such other law shall stand repealed in such area.

Repeal.

Reasons for the enactment

In varying degrees in the markets in West Bengal, buyers and sellers and, in particular, cultivators selling their produce, are subject to many disadvantages and malpractices amongst which the following are the most prevalent:

- (i) The rents realised by the owners and lessees of markets are often excessive and there are cases of grower-sellers having to pay, in addition to rents, certain levies either in cash or in kind.
- (ii) The system of sale in the market generally acts to the disadvantage of the producers and the benefit is largely appropriated by the middlemen and the merchants who on various accounts made deduction from the agreed price.
- (iii) No grading and standardisation of agricultural produce is done at the time of sale and this system also acts to the disadvantage of the producers; by mixed sale, producers often lose the price premium which they would have got if the sales were conducted under standard grades.
- (iv) Many of the markets are mismanaged. Sanitary and other arrangements are inadequate, causing inconvenience to the users of the markets and creating unhealthy condition.
- (v) Many of the owners hardly spend any amount for proper maintenance and improvement of the markets.
- (vi) Reliable information as to prices, stocks, sales, despatches, arrivals, etc., in respect of different markets are not usually available, though this is essential to formulate price and distribution policy and programme in regard to essential commodities.

2. The object of this measure is to secure better conditions in the markets for the public generally and to protect buyers and sellers and in particular cultivators selling their produce, from unjustified exactions and other malpractices which prevail. With provision of such facilities and protection, the growers' share in the price of agricultural produce paid by consumers will increase, creating an incentive for improvement in production. The Royal Commission on Agriculture in India (1928) while recommending legislation for establishment of regulated markets for agricultural produce says, "Well regulated markets create in the mind of the cultivator a feeling of confidence and of receiving fair play and this is the mood in which he is most ready to accept new ideas and to strive to improve his agricultural practice".

Accordingly provision has been made in this measure for—

- (i) licensing of markets;
- (ii) standardisation of rent payable by the sellers to the owners of markets;
- (iii) setting up of market committees with a view to supervising the work of the market;
- (iv) licensing of sellers, etc.;
- (v) standardisation of market charges and regulation of market practices;
- (vi) inspection of markets by Government agencies and market committees;

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- (vii) sanitary arrangements, etc., in markets and proper maintenance of markets by the owners;
- (viii) establishment of new markets, in public interest;
- (ix) taking over management of market by the market committee under certain circumstances in public interest; and
- (x) collection of information regarding prices, stocks, arrivals, despatches, etc.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1968 (6 of 1968) has been consulted before the enactment of this measure as a President's Act.