

Draft amended Sindh Agricultural Produce Markets Act

An Act to provide for a more competitive and unfettered operation of agricultural produce market in Sindh by enabling public and private sector operators to engage in the purchase and sale of agricultural produce and better regulation and operation of agricultural produce markets in the province of Sindh.

Preamble.- Whereas it is expedient to reform the regulation to facilitate marketing of agricultural produce, establishment and management of markets by the public and private sector with the objective to improve marketing competitiveness in agricultural marketing system in the province of Sindh :-

It is hereby enacted as follows

1. Short title and extent.---(i) This Act may be called as the Sindh Agricultural Produce Market Act, 2008 (Amended and up to date).

(ii) It extends to the whole of Province of Sindh.

(iii) It shall come into force at once.

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

(i) "**Act**" means the Sindh Agricultural Produce Market Act ;

(ii) "**Agricultural Produce**" means the produce, products and bye-products, whether processed or unprocessed, relating to agricultural or horticultural produce, livestock, fishery, Poultry products and bye products thereof as notified in the Schedule, provided that Government may, by notification in the official Gazette, add to, or omit any agricultural or horticultural produce, livestock, fishery and poultry products or their bye-products specified in the Schedule.

(iii) "**Dealer**" means any person who within a notified public or private market sets up, establishes or continues or allows to be continued any place for the purchase or sale of any agricultural produce or purchases or sells such agricultural produce.

(iv) "**Government**" means the Provincial Government of Sindh:.

(v) "**Grower**" means a person who is engaged in production of agricultural produce by himself or by hired labour or otherwise, but does not include any market functionary;

Provided that no person shall be disqualified from being a grower on the ground only that he is member of a society registered under the Cooperative Societies Act, 1912, which deals in the purchase or sale of agricultural produce or is otherwise engaged in the business of disposal or storage of agricultural produce.

If a question arises as to whether any person is a grower or not for the purpose of this Act, the decision of the Deputy Director of concerned Division or the Board in which the notified area is situated shall be final.

(vi) "**Market Committee**" means a committee notified under Agriculture Produce markets Act by the Government to manage a notified market.

(vii). "**Management Committee**" means one or more individuals who manage a market established in the private sector

(viii) "**Agriculture Market**" means involved in the sale and purchase of agricultural produce in public private partnership and private sector.

(ix) "**Notified market**" means a building or a block of buildings, enclosure or other area where any agricultural produce so notified is a place for the purchase or sale of any agricultural produce, or wholesale purchase or sales of such agricultural produce, notified under of the Agricultural Produce Markets Act;

(x) "**Public Market**" means a building, block of buildings, enclosure or other area established by public sector/market committee, which is used for sale or purchase of agricultural produce, which may be so notified in accordance with the rules made under this Act.

(xi) "**Private Market**" means a building, block of buildings (within boundary) established by private sector for the purpose of sale and purchase of agricultural produce viz fruit and vegetable, grain, fish, livestock/meat products and bye products only with the prior permission of the Board.

(xii) "**Prescribed**" means prescribed by rules or bye- laws made under this Act;

(xiii) "**Trade Allowance**" includes such allowances as have the sanction of custom in the notified area concerned.

(xiv) "**Warehouseman**" includes a person who stores any agricultural produce not belonging to himself and charges rent therefore, in any form, from the person at whose instance the said produce is so stored

(xv) "**Market functionary**" means a commission agent, auctioneer, broker, Warehouseman, weigh-man, grader, measurer or any other person declared as such under the rules, who render services for marketing of Agricultural Produce in a market;

(xvi) "**Wholesaler**" means a person who sells Agricultural Produce in a market in large quantities to be retailed by others.

(xvii) "**Buyer**" means any person including Government agency, public under taking or public agency, who himself or on behalf of any other person or agent buys or agrees to buy agricultural products or bye products in the notified market/place.

(xviii) "**seller**" means any person including Grower, who himself or on behalf of any other person or agent, sells or agrees to sell Agricultural Produce in the market;

(xix) "**Retailer**" means a person who sells agricultural produce in a market to the public for use or consumption but not for re-sale thereof.

(xx) "**Board**" means the Sindh Agriculture Marketing Board established and constituted by the Govt. under this Act.

(xxi) "**Company**" means a private limited company established under the companies ordinance.

(xxii) "**Rules**" means the rules made under this Act;

(xxiii) "**Market Committee Bye Laws**" means the bye laws made under this Act.

(xxiv) "**Secretary Agriculture**" means the Secretary, Agriculture Department, Government of Sindh;

(xxv) "**Director General**" means Director General Agriculture Extension Sindh.

(xxvi) "**Director**" means Director Agriculture Marketing Sindh

(xxvii) "**Deputy Director**" means Deputy Director Agriculture Marketing of the Division/Region and Head Quarter.

(xxviii) "**Assistant Director**" means the Assistant Director Agriculture Marketing of the district;

(xxix) "**Directorate of Agriculture Marketing Sindh**" means to supervise all activities and functions being carried out by the Market Committees of the Province of Sindh under this Act.

(xxx) "**Chairman**" means Chairman of a Market Committee.

(xxxi) "**Vice-Chairman**" means the vice-chairman of a market committee;

(xxxii) "**District**" means a District notified by the Government of Sindh.

3. De-notification of notified area or areas.----(i) All agriculture market area or areas notified under sections 3 and 4 of the agriculture Produce markets Act 1939 are hereby and forthwith de-notified.

(ii) The Government shall, by notification, under this Act, the market as defined under “ Notified Market” in public, public private partnership and private sector to control over the purchase and sale of such agricultural produce.

(iii) Any person, save the Government, may by incorporation **under the provisions of this Act**, set up or establishes a place or places within the Province of Sindh for the purchase or sale of agricultural produce so notified or purchase or sell such agricultural produce.

(iv) After the date of such notification and on the establishment of market committee, no person notwithstanding anything contained in any other Law unless exempted under this Act shall, within the notified market, set-up or establish or use any place for the purchase storage or sale of any agricultural produce except in accordance with the terms and conditions of license.

(v) Provided that person carrying out such business immediately before the publication of the notification under sub-section (i) shall if he applies for a License under Section-6 within thirty days of the publication of the notification or the date notified thereby, continue to do until the question of grant of the License is decided against him.

4. Mode of Trading: Agricultural produce entering into a notified market for the purpose of whole sale transaction shall be brought by or sold to the Licensed dealers by open auction in the prescribed manner and in case such agricultural produce cannot be sold through open auction, it may be sold so fixed.

Provided that where a floor or minimum price is fixed by or under any law the agricultural produce shall not be bought or sold at a lower than the authority to whom an application may be made for the grant of a License.

5. Authority to whom Application for grant of Licenses are to be made:-

(i) The Government shall by rules made under this Act specify the authority to whom an application may be made for the grant of a license for a dealership in a notified market.

Provided that a license shall not be required by a verified grower not being a market functionary, for the purpose of a notified market who sells himself or through a *bona fide* agent his own agriculture produce or the agriculture produce of his tenants on their behalf or by a person who purchases any agricultural produce for his private use.

(ii) A management committee may itself be a dealer, or may, if it considers appropriate seek applications for the grant of private market leases for a dealership or dealerships, awarded on terms and conditions mutually agreed.

6. Licenses, leases and the fees.----(i) Any person who wishes to work as dealer in a notified market shall apply on the prescribed form to the Market committee concerned for a license or for the renewal of the license which may be granted for such period, in such form, on such conditions and on payment of such fee as may be prescribed:

Provided that no fee shall be charged from a dealer who is a co-operative society registered under the Sindh Cooperative Societies Act, 1925.

(ii) A notified market licensee and a private market lease, shall not be granted to a person who :---

- (a) Is a minor other than that who inherits the business, or
- (b) Is found to be of unsound mind by a Court of competent jurisdiction; or
- (c) Is insolvent : or
- (d) Has been found guilty of criminal misappropriation or criminal breach of trust or cheating or any other offence involving moral or an abetment 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.

(iii) The market committee may, on being satisfied that there has been a breach of any of the conditions of a license, by an order in writing, cancel or suspend such a license and may also direct that such license shall not be renewed for such period not exceeding four months for the 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 fifteen days from the date of issue of the show cause notice.

(iv) Any Person aggrieved by an order passed by Market Committee may at any time within one month of the passing of the order appeal before the Deputy Director Agriculture Marketing of Division/Region concerned in case of 'A' & 'B' class Market Committee and Assistant Director of Agriculture Marketing of the District concerned in case of 'C' & 'D' class market Committee as the case may be and the order passed in appeal, shall be final.

7. Establishment of Market committee:---The Government shall by notification establish a market committee with its jurisdiction.

8. Establishment of management committee for private market.— Subject to rules, the document or documents of incorporation of a private market shall specify the composition, functions and powers of the management committee to manage and operate private market by the Sindh Agriculture Marketing Board.

9. Constitution of the market committee.---(i) a market committee shall consist of ten or eighteen members as Government may in each case determine with the recommendations of Sindh Agriculture Marketing Board.

(ii) Of these members, some may be appointed by Government from amongst the Officers (not below Grade-17) of the Directorate of Agriculture Marketing by virtue of his office

(iii) The remaining members shall be appointed by Government in the manner provided hereunder, that is to say:

(iv) If the committee is to consist of 10 members, there shall be appointed.

(v) Five members from growers of the jurisdiction of market committee concerned.

(vi) Three members from persons carrying on Business in Agricultural Produce including the Business as broker, weigh men, measurer or surveyor of the jurisdiction of market committee concerned.

(vii) One member from amongst the consumers to be nominated by the Board from jurisdiction of market committee concerned; and

(viii) If the committee is to consist of eighteen members, there shall be appointed.

(ix) Nine members from growers of the jurisdiction of market committee concerned.

(x) Six members from persons carrying on business in agricultural produce including the business as brokers, weighman, measurer or surveyor of the jurisdiction of market committee concerned;

(xi) Two members from amongst the consumers to be nominated by the Board from jurisdiction of market committee concerned;

(xii) No Act done by the committee shall be called into question on the ground merely of the existence of any vacancy in, or any defect in the constitution of the committee.

10. Duties of the committee.--- (1) It shall be the duty of the market committee to enforce the provisions of this Act and the rules and bye-laws made there under in the Notified Market and, when so required by the Government, to establish a market therein providing such facilities for persons visiting it in connection with the purchase, sale, storage, weighment, pressing and processing of agricultural produce concerned as the Government may from time to time direct.

(2) Subject to such rules, as the Government may make in this behalf, it shall be the duty of the market committee to issue licenses to brokers, weighmen, measurers, surveyors, warehousemen, changers, palledars, boriotas and rollas, for caring on their occupation in the notified market in respect of agricultural produce as defined in the Act and to renew, suspend or cancel such licenses.

(3) No broker, weighmen, measurer, surveyor, warehouseman, changer, palladar, boriotta and rola, shall, unless duly authorized by License, carry on his occupation in a notified market in respect of agricultural produce as defined in this Act.

11. Period Of Office Of Members:- Every member shall hold office for a period of three years from the date of his appointment and if, when such period expired, no person has been appointed to succeed him, such member shall unless the Government otherwise directs, continue to hold office until his successor is appointed.

12. Removal Of Members:- The Government may at any; time during the period of his office remove by notification any member if such member has, in their opinion, being guilty of misconduct or neglect of duty has been wrongly or improperly appointed or has lost the qualification on the strength of which he was appointed or whose continuance as member in the opinion of Government is not desirable.

13. Election Of Chairman and Vice-Chairman:- Subject to rules, every market Committee shall elect from amongst its members a chairman and a Vice-Chairman.

14. Filling Of Vacancies:- If through death, resignation, transfer residence outside the province, inability to Act as a member of the committee or removal in accordance with the provision of section-12, any vacancy occurs, Government may appoint a member to fill such vacancy in accordance with the provision of Section-11.

15. Incorporation Of Committee:- Every market committee shall be a body, corporate by such name as the 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 subject to the provisions of Section-24, 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 been acquired by it, and to contract and to do all other things necessary for the purposes for which it was established.

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

16. Sub-Committee And Joint Committee and Delegation Of Powers:- The market committee may appoint two or more of its member to be a sub-Committee for the conduct of any work or to report on any matter and may delegate to any one or more of its members and withdraw from him or them such of its powers or duties and in such manner as may be prescribed.

17. Appointment And Salaries Of Officers and Servants Of Market Committee:-

(i) Subject to such rules as may be made by the Government in this behalf, a market committee may employ such persons as may be necessary for the management of the market may pay such persons such salaries as it may think, fit and shall have power to control and punish them. The payment to its employees of such leave compassionate and medical allowances, gratuities and pensions as it deems proper; and may contribute to any provident fund which may be established for the benefit of such employees.

(ii) The Committee shall, in the case of any Government servant whom it employees, pay to Government such contribution towards the pension and leave allowances of such servant as may be payable under any regulations enforce.

(iii) Notwithstanding the provisions of sub- section (i) Government may constitute a service to be known as the Sindh Market committee Unified Grade service consisting of all posts in market committee in BPS-11 and above and all appointments to the said service shall be made by such authority in such manner and on such terms and as may be prescribed by the rules;

(iv) Authority competent to make appointment in said service shall be the authority competent to transfer any person in the said service from one market committee to other, whereas the service of employees of BPS-01 to BPS-10 known as Non Unified Grade Service Employees (whom services are under the competency of respective market committee) shall not be transferred from one market committee to other.

(v) All persons in the Unified Grade service shall be liable to such a disciplinary action and penalties as may be prescribed in rules, whereas the all persons in Non Unified Grade Service shall be liable to such a disciplinary action and penalties as may be prescribed in the Non Unified Grade Service and E&D Bye Laws.

(vi) Subject to rules, a market committee may pay the salary allowance and other benefits including share of pension fund of each Unified Grade Service employee towards market committees pension fund and except retirement benefits of the persons in the said service shall be disburse from the funds of the market committee concerned, whereas the above all pay and allowances including benefits may be paid by a market committee in case of employees working in Non Unified Grade Service Employees.

18. Persons who are to be deemed public servants within the meaning of section 21 of the Pakistan penal code -- Every person employed by the market committee under the provisions of Section 16 and every member of the committee shall be deemed to be a public servant within the meaning of Section 21 of the Pakistan Penal Code.

19. Execution of contracts --- (1) 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 or, if, for any reason he is unable to act by the vice- chairman and two other members of the committee and shall be sealed with the common seal of the committee.

(2) No contract other than a contract executed as provided in subsection (1) shall be binding on market committee

20. Levy of fees, rates and service charges (i) Subject to the rules made in this behalf, a market committee may levy a fee on an agricultural produce bought or sold in the notified market at such rate as may be prescribed by rules.

(ii) Whosoever being liable to pay a fee or service charge under this Act evades or fails to pay the same shall in addition to any other proceedings under this Act, be liable to pay a penalty which double of the fee, rate or the charges, as the case may be.

(iii) Market fee shall be levied in a prescribed manner on a person who sells or purchases Agricultural Produce in a notified market.

(iv) Market fee shall not be levied on Grower not being a dealer or market functionary.

21. Sindh agriculture marketing board

The Sindh Agriculture Marketing Board: - (i) The Board established and constituted under this Act shall be called as the Sindh Agriculture Marketing Board, which shall work under Director General, Agriculture Extension Sindh.

(ii) Subject to rules, the Government shall constitute Sindh Agriculture Marketing Board, which shall consist of such members as may be prescribed from amongst the;

- (a) The Director General and Officers working in Directorate of Agriculture Marketing.
- (b) Representative of Sindh Abadgar Board,
- (c) Representative of Sindh Chamber of Agriculture, and
- (d) Representative of Sindh Chamber of Commerce.

(iii) Subject to rules, the Sindh Agriculture Marketing Board Fund shall also be established and constituted under this Act which shall be called as the "Sindh Agriculture Marketing Board Fund" which shall be expended for.

a) Assisting the market committees by way grant in aid or loans enabling them to undertake construction of new markets, modern storages accommodation and such other works as may be approved by the Board.

b) Meeting expenses or organizing seminars, symposiums and fairs on agricultural marketing.

c) Imparting training to the members and employees of the market committees and officers of Agriculture Marketing and arranging studding tours for them within or outside the province to improve their efficiency.

d) engaged consultants of repute to undertake market surveys and commodity marketing research for further planning of marketing activities in the province.

e) payment of salaries to the employees and other necessary expenses required for administration of Board fund; and

f) payment of leave salary and retirement benefits to the employees of Sindh Agriculture Marketing Board Fund.

g) the employees of Market Committee Pool Fund established and constituted under Agricultural Produce Market Act-1939 shall be the employees of Sindh Agriculture Marketing Board Fund under this Act.

h) the Market Committee Pool Fund established and constituted under Agricultural Produce Market Act-1939 is hereby and forthwith de-notified as Sindh Agriculture Marketing Board Fund.

22. Powers and functions of board – (i) Subject to such rules as the Government may make in this behalf, the Board is empowered to :-

(a) grant permission for establishment of agricultural markets in the public/private sector
(b) establish new markets in the public sector and develop agricultural marketing system;
(c) establish, maintain and operate a fund to be called the Sindh Agricultural Marketing Board Fund;

(d) develop Agriculture Marketing Information service; and any other function as may be prescribed by the Government.

(e) take action for the loss, waste or mis application of any money or other property belonging to a market committee.

(d) Implementation of the decisions of Board will be followed by the Directorate of Agriculture Marketing Sindh.

23. Market committee fund :- (i) Subject to rules, all money received by a Market Committee shall subject to the provisions of Sections-20, be paid 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 said fund, and any moneys remaining after such expenditure has been met shall be invested in such manner as may be prescribed by rules.

(ii) Subject to rules, Out of the market fee collected by a market committee, 15% of the same shall be subscribed to the Sindh Agriculture Marketing Board Fund on monthly basis.

24. Purpose for which the fund may be expended ---- Subject to the provisions of Section 23, the market committee fund shall be expended for the following purposes only .

i) the acquisition of a site or sites for the market.

ii) the maintenance and improvement of the market.

iii) the construction and repair of buildings which are necessary for the purposes of such market and for the health,, convenience and safety of the persons using it.

iv) the provisions and maintenance of standard weights and measures .

v) the pay (leave compassionate and Medical allowances gratuities and pension] and contributions towards leave allowances or provident fund of the persons employed by the market committee.

vi) the payment of interest on loans that may be raised for purposes of the market and the provisions of a sinking fund in respect of such loans.

vii) The collection and dissemination of information regarding all matters relating the crop statistic and marketing and respect of the agricultural produce concerned and propaganda in favour of agriculture improvement in thrift.

viii) Providing comforts and facilities, such as shelter shade, parking accommodation and water for the persons, draught cattle and pack animals coming to the public market and similar other purposes;

ix) the expenses incurred in auditing the accounts of the market committee.

x) With the previous sanction of the Government, any other purpose which is calculated to promote the general interest of the public market.

xi) for the payment of traveling allowance to the members and the employees of the market committee as prescribed;

xii) arranging the agricultural exhibitions, means, seminars, harvesting and cleaning competitions and awarding prizes.

25 (1) Every person shall be liable for the loss , waste or miss application of any money or other property belonging to a market committee, if such loss , west or miss application is proved to the satisfaction of the Sindh Agriculture Marketing Board to the direct consequence of such persons neglect or misconduct in the performance for his duties while a member of the market committee and he may after being given an opportunity by a written or oral representation way he should not be required to make good the loss, be surcharge with the value of such money on the amount of such money by the Board, and if the amount is not paid within fourteen days from the expiry of period of appeal prescribed by sub-section (2) it shall be recovered by the committee as arrears of land revenue .

(2) the persons against whom and order under sub-section (1) is made may within one month of the notification of such order appeal to the Government who shall have the power of confirming, modifying or disallowing, the surcharge.

26. No trade allowance permissible except as prescribed by rules or by laws- No trade allowance other than an allowance prescribed by the rules or bye laws made under this act shall be made or received in a notified market by any person in any transaction in respect of the agricultural produce concerned and no civil court shall in any suit or proceeding arising out of any such transaction recognize any trade allowance not so prescribed.

27. Board of arbitrators The Provincial Government may by notification direct that all or any of the disputes other than disputes to which all the parties are dealers licensed under section 6 & 9 arising in a notified market and relating to such matters connected with agricultural produce as may be prescribed by the Provincial Government, shall be referred to Board of Arbitrators constituted under this act.

(2) said board shall receive and record evidence and shall have power to administer oath to parties and witnesses and on requisition in writing signed by the chairman of the board the Judicial magistrate authorized by the District & Session Judge in this behalf shall issue the necessary processes for the attendance of the 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 or production before himself.

(3) No member of arbitration 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 matters.

27-A (1) The decision of every Board of Arbitration shall be in accordance with the majority of votes.

(2) if here suit is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.

(a) the decision of the Board of Arbitration shall.

be enforced by any civil court having jurisdiction in the same manners decree of such court and

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

27-B. Regulation of private markets

(i). Market and its Regulation :- Notwithstanding anything contained in any other law for the time being in force, a person may establish a market on payment of prescribed fee with prior approval of the Sindh Agriculture Marketing Board.

(ii) No person shall, conduct the business of Agricultural Produce within an area of 200 meters around the market established under sub section (i) of this Act.

(iii) The Board may, either generally or specifically prescribe: -

(a) eligibility of a person to establish a market;

(b) type of a market;

(c) infrastructure in a particular type of market; and

(d) list of Agricultural Produce to be marketed in the market;

(iv) The Board may, if satisfied, de-notify or modify the type of market or list of Agricultural Produce to be marketed therein

(v) Any person aggrieved by the decision of the Board may file appeal to the Government.

27-C management of public sector markets

(i). **Management of public sector markets.** (1) Every public sector market shall be managed by a market committee, except ex-officio member the remaining members shall be elected in such manner as may be prescribed.

(ii) All the existing Market Committees established and constituted under the Agricultural Produce Market Act 1939 and the rules framed there under shall DENOTIFIED UNDER THIS ACT.

27-D. Management of private sector markets (i) Every private sector market shall be managed by the Management Committee, notified by the Sindh Agriculture Marketing Board.

(ii) Where a fails to perform its functions or violates the terms and conditions prescribed, the Board may constitute an other Management Committee for that market to ensure proper administration, management and maintenance of that market
Provided that before taking such decision.

(iii) the management committee shall be given an opportunity of being heard.

27-E. Powers and functions of a management committee . The Management Committee shall manage the market and regulate marketing of Agricultural Produce therein through enforcement of this Act, the rules and the bye-laws made there under.

28. Bar of suit in absence of notice----(1) No suit shall be instituted against any market committee or any member or employee there of any person acting under the direction of any such committee member or employee for any think done or purporting to be done under the act until the expression of two months next after a notice in writing stating the cause of action the name and place of abort of the intending plaintiff and the relief which he claims has been in the case of committee delivered or left its office in the case of any such member employee or person as a aforesaid delivered to him or left at his office or usual place of abort and the plant shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be dismissed in less it is instituted within six months from the date of the accrual of the cause of action

29. Power to borrow :-

(1) The market committee may, with the previous sanction of the Government raise the money required for carrying on the purposes for which it is established on the security of any property vested in and belonging to the market committee and of any fees livable by the market committee under this Act.

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

29-A (i) The Sindh Agriculture Marketing Board may by order in writing annul any proceeding of a committee or sub-committee which considers not to be in conformity with law or the rule or bye-laws in force there under and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to lead to a breach of the 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 or of any class of functionaries working within jurisdiction of market committee concerned.

(2) The Sindh Agriculture Marketing Board may by order in writing suspend within the limits of the district the execution of any resolution or order of a market committee or sub-committee or prohibit the doing within pursuance of or any act, which is being done or is about to be done in there under. If in his opinion, the resolution order or act is in excess of the injury or annoyance to the public or to any class or body of person, or is likely to affect adversely the interests of the produce or of any class of functionaries working within jurisdiction of market committee concerned.

(3) When the Sindh Agriculture Marketing Board makes an order under this section, he shall forthwith forward a copy thereof with a statement of his reasons for making it and the explanation if any of the market committee concerned to the Government shall continue in force with or without modification, permanently or for such period as it thinks fit.

30. Supersession of market committee:-

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

Provided that before issuing a notification the Government shall give a reasonable opportunity to market committee for explanations and objections, if any of the market committee.

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

(a) All of the members including the chairman and Vice-Chairman of the market committee shall as from the date of such publications be deemed to have ceased to be members of the committee.

(b) All assets of the committee shall vest in Government and the Government shall be liable to all the legal liabilities of the committee existing at the date of its supersession upto the limit of the said assets.

(3) The Government may at their discretion by order constitute either a new committee as provided under Section-9 or such other authority carrying out the functions of the committee as the Government may deem fit.

(4) (a) When the Government have made an order under sub-section (3), the assets and liabilities defined in sub-section (2) (b) vesting in the 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 authority constituted as aforesaid.

(b)(i) Where the Government by order under sub-section(3) have appointed an authority other than a new committee for carrying out of the functions of the superseded committee the Government may by notification determine the period for which such authority shall act. Such period shall not be longer than six months.

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

(ii) At the expiry of the term of office of such authority a new committee shall be constituted.

(iii) Upon such an order being made the assets and liabilities vesting in the authority thereby superseded be deemed to have been transferred by such order to the new committee.

(5) Whenever the assets of a committee vest in the Government and no new committee or authority is appointed in its place, the Government shall employ the balance of the assets remaining after the discharge of the subsisting legal liabilities of the said committee for any object of public utility in the area specified in the notification.

31. Emergency powers :- If at any time Government are satisfied that a situation has arisen in which the purposes of this act cannot be carried out in accordance with the provisions thereof, Government may by notification.

(a) Declare that the functions and powers of the market committee shall to such extent as may be specified by Government or such person as they may direct; and such notification may contain such incidental and consequential provisions as may appear to Government to be necessary or desirable for giving effect to the objects of the notification.

(b) Assume to them-selves all or any of the powers vested in or exercisable by any market committee.

(c) Declare that the functions of the market committee shall, to such extent as may be specified in the notification, be exercised by the Government or by such authority not more than 180 days as it may direct.

32. Trials and punishment

Trial of offence. - (i) An offence punishable under this Act, the rules and the bye-laws made there under shall be tried by a court of Magistrate of the first class or the mobile magistrate.

(ii) Any person especially empowered under this Act, or a market committee may Institute prosecution for the purpose of this Act.

Provided that any offence may be compounded at any time before initiating prosecution, or where a prosecution has been initiated before the final disposal of the case.

Provided further that Market Committee may by order in this behalf authorize the Secretary of Market Committee for institution of prosecution under this Act.

33. Power to make rules : --- (1) The Government may either generally or specially for any notified market or markets make rules consistent with this Act for carrying out all or any of the purposes thereof .

(2) in particular and without prejudice to the generality of the forgoing power such rules may provide for

(i) the appointment and removal of members of a market committee.

(ii) the powers to be exercised and duties to be performed by the market committee.

(iii) the election of the chairman and vice chairman of such committee, their powers and term of office.

(iv) the filling of casual vacancies in the office of members are in the office chairman or vice-chairman of market committee.

(v) the time place and manner in which a contract between buyer and seller is to be entered in to and the money is to be paid to the seller.

(vi) generally for the guidance of the market committee.

(vii) management of the market fee which may be lived by the market committee in respect of the agricultural produce bought or sold by the licensees in the notified market and the recovery and disposal of such fees.

(viii) the issue by market committee of licenses to brokers weighmen measurers, surveyors, warehouseman, the form in which, and the conditions under which such licensees shall be issued or renewed and the fee to be charged therefore.

(ix) the place or places at which the agricultural produce shall be weighed the kind and description of the scales, weights and measures which alone may be used in transactions in agricultural produce in a notified market.

(x) The inspection, verification, regulation, correction and confiscation of scales, weights and measures in use in a notified market.

(xi) The trade allowances which may be made or received by any person in any transaction in an agricultural produce in a notified market.

(xii) (a) the continuation powers and functions of a Board of Arbitration (the manner in which reference shall be made to it)

(b) the procedure to be followed by board of Arbitrators in the disposal of references under this Act.

(c) the transfer of matters and cases from one board of Arbitrations to an other and the transfer of money in such cases

(d) the representation in proceedings before Board of Arbitration of parties who are minors or of unsound mind or are unable to make an appearance;

(e) the regulation of the scale of costs which may be allowed in proceedings before Boards of Arbitration.

(f) prescribing and determining the amount of the fee payable in respect of any proceedings before a Board of Arbitration.

(g) the maintenance by Board of Arbitration of registers and records of proceedings before such Board and for the inspection of such registers and records.

(xiii) the prohibition of brokers from acting in the same transaction on behalf of both the buyer and the seller of agricultural produce.

(xiv) the provision of accommodation for storing any agricultural produce brought into the market.

(xv) the preparation of plans and estimates for works proposed to be constructed party or wholly at the expense of market committee and the grant of sanction to such plans and estimates.

(xvi) the form in which the accounts of a market committee shall be kept the audit and publication of such accounts and the charge if any to be made for such audit..

(xvii) the preparation and submission for sanction of annual budget and the reports and returns to be furnished by a market committee.

(xviii) the investment and disposal of the surplus funds of a market committee.

(xix) the manner in which open auction under this Act shall be conducted and bids made and accepted in any market.

(xx) 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 .

(xxi) exemption of persons or classes of persons from the obligation of obtaining licenses under this Act.

(xxii) specifying the authority to which applications obtaining licenses shall be made.

(xxiii) the realization of disposal of fees recoverable under this Act or under any rules or bye-laws made under this Act.

(xxiv) the traveling expenses that may be paid to the members and employees of market committee.

(xxv) the settlement of any question as to whether any person is a grower or not .

(xxvi) the appointment of members of a market committee and.

(xxvii) the submission of a panel by person , licensed non-official member of the District council and persons licensed under this Act.

(xxviii) imposing on persons licensed under this Act, the duty of making returns to market committees at regular intervals of transaction of sale and purchase effected 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 particulars to be entered in such returns as well as the nature of such information.

(xxix) such other matters as in the opinion of the provincial Government are necessary or expedient to be prescribed.

(3) Any rule made under this section may provide that any contravention thereof or of any of the conditions of any license issued or renewed there-under shall be punishable with fine which may extend to five thousand rupees.

34. Framing of Bye-Laws:—(1) Subject to rules made by the Government under section 32. a market committee may in respect of the notified market under its management make bye-laws for:--

- (i) the regulation of business .
- (ii) the conditions of trading
- (iii) the appointment and punishment of its employees and
- (iv) the payment of salaries, gratuity/commutation, pension leave allowance to such employee;
- (v) the delegation of powers duties and functions of the sub-committees if any provided by this Act.
- (vi) the remuneration of different functionaries not specifically mentioned in the Act working in the notified market and rendering any service in connection with the sale or purchase of agricultural produce and .
- (vii) Such other matters as in the opinion of the Provincial Government as necessary or expedient to be provided for in bye-laws.
- (viii) and may provide that contravention thereof shall be punishable on conviction by a competent magistrate with a fine which a fine extend to five thousand rupees.

(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) No bye-law made under this Act shall have any validity until and unless it is confirmed by the Provincial Government.

(4) Before confirming any such bye-law the Provincial Government may modify it.

(5) The Provincial Government may cancel their confirmation of any such bye-law and thereupon the bye-law shall cease to have effect.

35. Licence fee and service charge

(i). **Grant of Licence:-** The Market Committee may grant a license to a market functionaries, sellers and buyers working in the market in such manner, on payment of such fee, for such period, in such form and on such terms and conditions as may be prescribed.

(ii) **Where a Market Committee** refuses to grant a license to a seller, market functionary and buyer working in the market, he may, within fifteen days of the passing of the order, file an appeal before the Deputy Director Agriculture Marketing of Division/Region concerned in case of 'A' & 'B' class Market Committees and Assistant Director of Agriculture Marketing of the District concerned in case of 'C' & 'D' class market Committees as the case may be.

(iii). **Cancellation or suspension of licence.** (1) A Market Committee may, by an order in writing, cancel the licence, on being satisfied that,

- (a) the same has been obtained through misrepresentation or fraud;
- (b) there has been a breach of any of the condition thereof;
- (c) the licensee has become insolvent;
- (d) the qualifications for the license have ceased to exist; and
- (e) the licensee has ceased to carry on business.

(iv) **No order under sub-section** (iii) shall be passed without giving the licensee an opportunity of being heard:

Provided that where a licensee willfully violates any material condition of the license and an immediate action is necessary, a market committee may suspend the license forthwith for a period not exceeding fifteen days.

(v) **A person aggrieved by an order passed under sub-section** (i) or sub-section (ii) may, within a period of thirty days of the passing of the order, prefer an appeal against such order before the Deputy Director Agriculture Marketing of Division/Region concerned in case

of 'A' & 'B' class Market Committees and Assistant Director of Agriculture Marketing of the District concerned in case of 'C' & 'D' class market Committees as the case may be.

(vi) Where the license has been cancelled or suspended under sub-section (i) or sub-section (ii) the licensee shall cease to carry on his business forthwith. In case of violation or he continues his business he will be trial before the court of First class Magistrate with a fine up to ten thousand rupees but not less than five hundred rupees per day.

36. Market committee fund

(i) All moneys received by a Market Committee shall be deposited into a fund to be called the Market committee fund in a prescribed manner.

(ii) The Market Committee Fund shall be maintained in a scheduled Bank as per notified Government policy.

37. Recovery of dues:- (i) All sums due from a Market Committee to the Government may be recovered as arrears of land revenue through competent authority.

(ii) All sums due from a person to the Market Committee may be recovered as arrears of land revenue through competent authority or court of Law.

(iii) All sums due from Government Departments/Agencies to the Market Committee may be recovered as arrears of land revenue through competent authority or court of Law.

38. Budget, accounts and audit

(i) **Budget.** - Before the expiry of each financial year, a Market committee shall prepare a budget for the next year in a manner, as may be prescribed by rules.

(ii) **Accounts and Audit** - A Market Committee shall maintain proper accounts of the Market Committee Fund and prepare annual statement of its accounts in such form and manner as may be prescribed by rules.

(iii) The accounts of a Market Committee shall be audited by the Director Local Fund Audit Department; Government of Sindh on such fee as may be prescribed by the Government of Sindh.

39. Employees of market committees/management committees

Terms and conditions of employees. A Market committee/Management Committee may employ such person as may be necessary for the management of the market on mutually agreed terms and conditions. Terms and conditions of employees of market committees may be prescribed by the government under rules.

40. Accountability

(i) **Accountability.** - The members, including the Chairman and the Vice Chairman or the employees of a Market Committee shall be personally responsible for any loss, financial or otherwise, caused to the Market Committee.

(ii) The Government may under this law or any other law for the time being in force institute any proceedings to recover the loss from the persons held responsible in this regard even after retirement also.

41. Delegation of Powers: The Provincial Government may by general or special order, delegate to the Secretary Agriculture, or Director Agriculture Marketing Sindh any of its powers, duties or functions provided under this Act with such conditions as it may deem fit.

42. Registration of Associations: - (i) Any group of persons, being dealt under the provisions of this Act, may form an association for development of their business and betterment of Agricultural Marketing System.

- (ii) Where any group of person intends to form an association, they shall make an application on prescribed form to the Director of Agriculture Marketing Sindh.
- (iii) The Director of Agriculture Marketing Sindh after verifying the contents of Memorandum of Association and making such inquiries as may be considered necessary may register any Association for the purposes of this Act.
- (iv) The association shall, in a manner provided under section 33, frame byelaws for its functioning.

43. Functions of Directorate of Agriculture Marketing Sindh subject to such rules as the Government may make in this behalf, the Directorate of Agriculture Marketing Sindh may perform the following functions: -

- (a) conduct market survey and research in Agricultural Economics and Marketing;
- (b) inspect and monitor functions of market committees
- (c) provide marketing extension services;
- (d) promote, disseminate and facilitate the advanced concepts of Agricultural Marketing and Market intelligence ;
- (e) promote quality standards and value addition of the agricultural produce;
- (f) administrative and financial control of Market Committees and their staff shall be exercised under the super vision of Director General.
- (g) any other function as may be prescribed by the Govt.

AMENDMENTS AND SAVINGS

(i) The Agricultural Produce Market Act-1939 is hereby amended under the title "THE SINDH AGRICULTURAL PRODUCE MARKET ACT"

(ii) Notwithstanding the amendments of the Agricultural Produce Market Act 1939:-

(a) everything done, action taken, obligation, liability incurred, penalty or punishment imposed or awarded, rates, fees and other charges levied, license granted, renewed, suspended or cancelled, enquiry or proceeding commenced, committee or person appointed or authorized, jurisdiction or power conferred, the bye-laws made, orders or notifications issued under any of the provision of the amended Act, shall, if not inconsistent with the provisions of this Act, be deemed to have been performed, taken incurred, granted, imposed, awarded, Commenced, appointed, authorized, conferred, made or issued under this Act,

(b) Until the rules are not framed under this Act, the Agricultural Produce Market Rules 1940 made under the amended Act, shall remain operative to the extent they are not inconsistent with this Act.

STATEMENT OF OBJECTS AND REASONS.

Over the years, need is felt to revamp the existing law on the field i.e. the Agricultural Produce Market Act 1939 to make it compatible and responsive to the growing needs of agricultural produce markets and Agriculture Marketing system. Therefore, private sector shall be included for salient features of the new law which is as under: -

Establishment of different types of markets,
wholesale markets, special commodity markets, bulk trading auction markets and farmer markets.

Market Committee shall regulate the activities of Agricultural Marketing within the premises of notified market/places and their management through management committees.

Constitution of market committees with due representation of Growers organizations/ associations of stakeholders through democratic way viz.

Growers, sellers, buyers and licensee Dealers as being market functionaries.

New markets shall be established by the Sindh Agricultural Marketing Board and private sector with prior approval of the competent authority.

Grant of licenses to sellers, buyers and market functionaries of a market.

Levy and collection of fee or service charges within the premises of notified markets/places.

Transformation of the Market Committees Provincial Fund Board into Sindh Agricultural Marketing Board to carry out the functions of agricultural marketing research, information, training and establishment of new markets.

Resolution of disputes relating to stakeholders of a market through a panel of arbitrators appointed at Market Committee level.

Organizing and registering associations of Growers, licensee Dealers as being market functionaries.

“SCHEDULE”

(See clause (ii) of Section-2)

AGRICULTURAL PRODUCE

CEREALS:

Wheat, Maida, Suji, Dalya, Barley, Paddy, Rice, Maize, Maizecobs(green and dry), Jowar, Bajra, their Atta/ Husk/ Bhoosa and Starch.

FIBERS:

Cotton unginned (Phutty) Lint Cotton, Jute fibre, yarn and cotton waste.

SUGARCANE AND BYE PRODUCTS:

Sugarcane, Sugarcane-juice, Gur, Shakkar, Molasses, Sugar desi and refined, Bagas (waste of sugarcane).

OIL SEEDS:

Cotton seed, linseed, Sarsoon, Rayi, Taramire, Til, Palm, Soyabean, Sun-flower, Ground nut, Caster, Coconut, vegetable Ghee, Torya seed, their oils and oil cakes.

PULSES:

Mung, Masoor, Mash, Matter Moth, Gram, Beans, Arhar, Gowand, Basin and others (whole and split).

FODDERS:

Senji, Lucern, Berseem, Bajra, Jawar other than Bajradry, Maize, Paddy Straw(Palal), Shaftal, Barley, Wheat, Jawi, Swank, Oats and Ajwan, (green and dry) and their seeds.

FRUITS AND VEGETABLES:

All kinds of fruits (fresh and dry), dates fresh, dates dry, chohara and all kinds of dry fruits.

CONDIMENTS:

Chilies, Coriander, Fennel(Saunf), Garlic(green and dry) and other.

TOBACCO:

Tobacco-leaves, tobacco crude.

MEHNDI:

Leaves and Powder.

LIVESTOCK AND POULTRY PRODUCTS AND BYE PRODUCTS:

Goats, Sheep, Cow (Milch or graugh), Buffaloes, Camels, Horses, Beef, Mutton, Hides and Skins (dry and wet) chicken and Eggs (dasi and farmi) .

FISH

Fish (Fresh and dry)

MISCELLANEOUS

Bones, Bone meals, Feeds (including Poultry feed) Wool, Milk, Curd (Dahi) Chees, Butter, Dasi Ghee, Fire wood, Timber wood and Charcoal.