

THE BALOCHISTAN AGRICULTURAL PRODUCE MARKETS

ACT, 1991

(Baln Act I of 1991)

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'THE BALOCHISTAN AGRICULTURAL PRODUCE MARKETS

Preamble.

Short title, extent
and
commencemen
t.

Definitions.

ACT, 1991

(Bal Act I of 1991)

[25"¢ November, 1991]

An Act to provide for the better regulation of purchase and sale of agricultural produce and the establishment of markets for agricultural produce in the Balochistan Province.

WHEREAS it is expedient to provide for the better regulation of purchase and sale of agricultural produce and for that purpose to establish markets and make rules for their proper administration in the manner hereinafter appearing.

It is hereby enacted as follows:—

1. (1) The Act may be called the Balochistan Agricultural Produce Markets Act, 1991.

(2) It extends to the Province of the Balochistan except Tribal Areas.

(3) It shall come into force at once and shall be deemed to have taken effect from 29" day of December, 1990.

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

(a) "agricultural produce" means:-

(i) barely and its atta; sattu, bhusa;
(ii) Bajra (grains) and its atta;

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

(iv) — Chillies (green, dry and ground);

(v) fodders viz, senji, lucern, — shaftal, berseem, shalgham, guara, chari, bajra, maize, javi, barley, wheat, jowar (green and dry) and their seeds methi, metha,

For statement of objects and reasons see Baln. Gazette (Extraordinary) No. 97, dated 1st October, 1991. This Act was passed by the Legislative Assembly on 9th October, 1991; assented to by the Governor of Balochistan; and, published in the Balochistan Gazette (Extraordinary) No. 105, dated 25 November, 1991.

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swank, oats, ajwain;

fruits and vegetables (fresh and dry) and
their squashes, james, pickles, cordials,
marmalades, chunties, sauce, jellies,
candles, juices;

firewood and tanning bark;

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

jute (seed and fibre) oisal (seed, juice and
fibre);

jowar (grains) and its atta;

livestock viz, (male or female, milch or
draft) goat, sheep, buffellow, cow, camel,
horse, and poultry including turkeys
(dressed or otherwise), fish and livestock
products viz, beef, mutton, hides and
skins (dry and wet) bones, bone meals,
feeds, wool, hair, eggs, cheese, butter,
desi ghee, milk and curd (dehi) marjarin;

mehndi (leaves and powder);

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

oilseeds viz, cotton seed, linseed, sarson, raya, toria, taramira, soyabeen, sunflower, til, groundnut, castor, palm and their oils, oil-cakes, hulls, meals, feeds, vegetables ghee;

rice (paddy) rice (cleaned), rice (broken) phak, parali, hulls, husks (rice silver), parboiled;

sugarcane and its products viz gur, shakkar, sugar (desi and_ refined), molasses sugarcane juice);

tobacco leaves, tobacco cured and its snuff or naswar and guraku;

Wheat and its atta, maida, suji, dalia, starch, choker, bran, bhusa; and

any other commodity that may hereafter be declared by notification to be agricultural produce for the purposes of this Act.

(b) "dealer" means any person who within the notified market area sets up, establishes, uses or allows to be used any place for the purchase or sale of the agricultural produce;

(c) "Director General or Agricultural" means Director General of Agriculture, Balochistan;

(d) "Director of Agriculture (Economics and Marketing)" means the Director General of Agriculture (Economic and Marketing), Balochistan;

(ce) "Director Extension" means the Director Agriculture Extension in any region of Balochistan or Balochistan Province;

(f) "Deputy Director of Agriculture (Economics and Marketing)" means the Deputy Director of Agriculture (Economics and Marketing) concerned;

(g) "[Director of Agriculture (Economics and Marketing)]" means the '[Director of Agriculture (Economics and Marketing)] of the district within the boundaries of which the notified market area concerned is situated;

(h) "Extra Assistant Director of Agriculture (Economics and Marketing)" means the Extra Assistant Director of Agriculture (Economics and Marketing) concerned;

(i) "Grower" means a person who by himself or through tenants or otherwise grows, rears, produces, manufactures or processes agricultural produce but shall not include a person, other than a member of a society registered under the *Cooperative Society Act, 1925, who works as a dealer or broker either individually or as a partner of a firm or dealers or brokers or is

1 Subs for the words "Deputy Commissioner" by Act XI of 2004, published in the Balochistan Gazette (Extraordinary) No. 103,

August, 2004; passed by Provincial Assembly on 24" August, 2004; and assented by the Governor on 27" August, 2004.

2 i.e. Sind Coop. Society Act VII of 1925. Adopted by W.P. Adaption and Regulation of Laws Act, 1957 (W.P. Act XVI of 1957 further adopted by the Baln. A.O. of 1975.

otherwise engaged in the business of disposal of storage or processing of agricultural produce;

(j) "Government"? means the Government of Balochistan Province;

(k) "Market" means a building, block of buildings enclosure or other area which may be so notified in accordance with rules framed under this Act;

(1) "Market Committee" means a market committee established under section 7 of this Act;

(m) "notified market area" means any area notified under section 4 of this Act;

(n) "prescribed" means prescribed by rules or byelaws made under this Act;

(o) "Secretary Market Committee" means the Secretary of Market Committee concerned;

(p) "trade allowance" means such allowance as may be prescribed under the rules or may be specified in the bye-laws of market committee;

(q) "ware-houseman" includes a person who stores any agricultural produce not belonging to himself and charges rent therefore in any from, from the persons at whose instance the said produce is so stored;

(r) "Cold store" means a controlled atmosphere store used for the storing the agricultural products.

Notification of 3. Government may by notification, declare its intention of intention of exercising control over the purchase and sale of such exercising agricultural produce and in such area as may be specified in the control over

notification, such notification shall state that all objections or purchase and

suggestions, which may be received by the [Director of sale of agricultural Agriculture (Economics and Marketing)] through Extra produce in sale Assistant Director of Agriculture (Economics and Marketing) of specified within a period to be specified in the notification will be area. considered:

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

Declaration of 4. (1) After the expiry of the period specified in the

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Subs for the words "Deputy Commissioner" by Act XI of 2004, published in the Balochistan Gazette (Extraordinary) No. 103, dated 24 August, 2004; passed by Provincial Assembly on 24th August, 2004; and assented by the Governor on 27th August, 2004.

notified area.

Market committee

to issue and
renew licences.

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

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

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

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

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

(4) No person shall within the market store, purchase, sell or in any other manner deal in any commodity which is not declare as agricultural produce.

5. Subject to such rules as the Government make in this behalf the market committee concerned shall be the authority to

issue licence to a dealer under this Act and to review such a licence.

Application for 6. (1) Any person who wishes to work as a dealer in a licence fee to notified market area may apply on the prescribed form to the be paid and market committee concerned of a licence or for the renewal of cancellation °F the licence which shall be granted for such period in such from suspension of - ; licences. on such conditions and on payment of such fee not exceeding

Rs. 1000/- per annum as may be prescribed:

Provided that no fee shall be charged from a dealer who is cooperative society registered under the 'Cooperative Societies Act, 1912 (II of 1912).

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

(a) is a minor; or

(b) is found to be of unsound mind by a court of competent jurisdiction; or

(c) is a declared insolvent; or

(d) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or any other offence involving moral turpitude or an 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.

1 Mentioned in Schedule-I of the Balochistan Law Regulation, 1913 (Baln. Reg. II of 1913); and shall deem to be inforced in B

3.

Establishment of

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

- (i) Upto 3 months Rs. 1,000/-
- (ii) | Upto 6 months Rs. 2,000/-
- (iii) | Exceeding 6 months Rs. 3,000/-

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

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

(5) Any person aggrieved by an order passed under sub-section (4) may at any time within one month of the passing of the order appeal to the Extra Assistant Director of Agriculture (Economics and Marketing) or E.A.D.A. of the district against such order. The order of the Extra Assistant Director of Agriculture (Economics and Marketing) if confirmed by the Deputy Director Agriculture (Economic and Marketing) shall be final.

7. The Government shall by notification establish a market

market committee for every notified market area. committees.

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

(2) Of these members one may be appointed by Government from amongst the employees of the Agriculture Department.

(3) The remaining members shall be appointed by Government out of a panel of names recommended by the "Executive District Officer (Revenue)" and in case there is no "Executive District Officer (Revenue)" the "Deputy Director Agriculture (Economics and Marketing)"] equal to twice the number of vacancies to be filled in the manner provided hereunder, that is to say:—

(a) if the committee is to consist of ten members, there shall be appointed;

(i) five members from growers of the notified market area concerned; and

(ii) two members from persons licenced under section 6 and one member from persons licenced under section 9 and working as a weighman, broker or palledar in the notified market area concerned; and

(iii) One member from amongst the

1 Subs for the words "Deputy Commissioner" by Act XI of 2004, published in the Balochistan Gazette (Extraordinary) No. 103,

August, 2004; passed by Provincial Assembly on 24" August, 2004; and assented by the Governor on 27" August, 2004.

consumers resident in the notified market area concerned who is not a dealer or a grower.

(b) if the committee is to consist of seventeen members, they shall be appointed:—

(i) nine members from growers of the notified market area concerned;

(ii) five members from persons licenced under section 6 and one member from persons working as a weighman, broker or palledar from the notified market area concerned who is not a dealer or a grower; and

(iii) one member from amongst the consumers resident in the notified market area concerned who is not a dealer or a grower.

(4) If any question arises as to whether any person is or is not a grower for the purposes of this Act the decision of the [“Executive District Officer (Revenue)” and in case there is no “Executive District Officer (Revenue) the “Deputy Director Agriculture (Economics and Marketing)” |shall be final.

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

Duties of the

Period office of

market
committee.

member.

(6) No person shall be appointed as a member of
market committee for two consecutive terms.

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

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

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

(3) No broker, weighman, measurer, surveyor,
warehouseman, changer, palledar, boriota, tola, tokriwala and
rehriwala shall unless duly authorized by licence carry on his
occupation in a notified marked area in respect of agricultural
produce.

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

successor is appointed.

Removal of 11. The Government may at any time, by notification, member. remove any member if such member has, in their opinion, been guilty of misconduct or neglect of duty or has been wrongly or improperly appointed or has lost the qualification on the strength of which he was appointed or whose continuance as a

member in the opinion of Government is not desirable.

Election of 12. Every market committee shall elect from amongst its

chairman and members a chairman and vice- chairman:

vice chairman.

Provided that a member who is not a grower shall not be

eligible for election as chairman '[and Vice Chairman. |

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

of Section 8:

Provided that term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed under section 10 unless there be delay in appointing a new member to succeed the member first mentioned above, in which case it shall expire on the date on which his succour is appointed by the Government.

Incorporation of 14. Every market committee shall be a body corporate by committee. 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 26, be competent to acquire

and hold properly, both movable and immovable, to lease sell

1 Inserted at the end after deleting full stop, by Act XI of 2004, published in the Balochistan Gazette (Extraordinary) No. 103, on 24 August, 2004; passed by Provincial Assembly on 24th August, 2004; and assented by the Governor on 27th August, 2004.

Sub Committee and

delegation of
powers.

Appointment and

salaries of
officers and
servant of
market
committee.

or otherwise transfer any moveable 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 purpose for which it is established:

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

15. (1) The market committee may appoint two or more of its members to be a sub-committee for the conduct of any work or to report on any matter.

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

16. (1) 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 including seasonal and part-time staff, may pay such persons such salaries and wages as it may think fit and shall have power to control, remove and punish them. The market committee may also in such manner as may be prescribed, grant to its employees such leave, allowances, pension, gratuities or compassionate allowance as it deems proper; and may contribute to any provident fund which may be established for the benefit of such employees.

(2) The Government may constitute a market committee employees cadre for such employees and on such terms and conditions of service as may be prescribed.

(3) Subject to such rules as may be made by the Government, every employee of a market committee shall be

Employees and

members to
public servants
within the
meaning of the
Pakistan Penal
Code.

Execution of

contracts.

Levy of fees.

liable to be transferred for service in any market committee of
the province.

(4) The committee shall, in the case of any
Government servant whom it employs pay to Government such
contribution towards pension and leave allowances of such
servant as may be payable under rules applicable to that
Government servant.

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

18. (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 and two members, or, if
for any reason the chairman is unable to act, by the vice-
chairman and two members of the market committee and shall
be sealed with the common seal of the market committee.

(2) No contract other than a contract executed in the
manner provided in sub-section (1) shall be binding on a market
committee.

19. A market committee may, subject to such rules as may
be made by Government in this behalf levy fees, not exceeding
the maximum rates prescribed, on the agricultural produce
bought or sold by or through a dealer in the notified market
area:

Provided that:-

(a) no fee shall be leviable in respect of
any transaction in which delivery of the
agricultural produce bought or sold is

not actually made.

(b) no fees shall be liable on a person who is not a party to a _ transaction.

(c) no fee shall be leviable in respect of any subsequent transaction of sale or purchase within the same notified area of an agricultural produce extracted after being subject to manufacturing or

processing.

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

prescribed.

(2) (a) Every market committee shall, out of its fund, pay to the Government in consultation with the market committee for giving effect to provisions of this Act in the notified market area.

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

(3) Every market committee shall out of its fund pay to the Government such percentage of its income as may be

Purposes for which

the fund may
be expended.

prescribed, to be credited to a fund maintained and operated upon by the Government for purposes common to or in the overall interests of the market committees.

21. Subject to the provisions of section 20 the market committees fund shall be expended for the following purposes

only:—

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acquisition of land for the establishment of market or markets:

maintenance and improvement of the markets including construction of storages, platforms, small pulleys, culverts and road;

construction and repair of buildings which are necessary for the purposes of establishing such markets and for the health, convenience and safety of the persons using them;

collection and dissemination of information regarding all matters relating to marketing in respect of the agricultural produce and propaganda in favour of agricultural improvement and thrift;

providing comforts and facilities, such as light, sanitation, shelter, shade, parking, accommodation and water for the persons, drought cattle, vehicles and pack animals coming to the market and similar other purposes;

provision of facilities such as cleaning, sets, plants or grading, standardization, packing and processing of agricultural produce;

construction of cold storage, warehouses and godowns for the benefit of growers;

establishment of feeder markets;

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(xiii)

(xiv)

(xv)

(xvi)

(xvii)

(xviii)

(xix)

provision and maintenance of standard weights
and measures;

pay, leave, compassionate and medical
allowances, gratuities, pensions, honoraria and
contributions towards leave allowances or
provident fund of the persons employed by
market committee;

payment of interest on loans that may be raised
for the purposes of the market and the provision
of sinking fund in respect of such loans;

expenses incurred in auditing the account of
market committee;

payment of travelling allowances to the members
and employees of market committees and
members of the Board of Arbitrators as
prescribed;

payment of allowances and honoraria to the
administrator of the superseded market
committee;

contribution towards the market committees fund
subject to rules framed thereunder;

payment of property tax and house tax;

payment of other taxes as convered by

appropriate Acts;

engagement of a lawyer;

subject to previous' sanction of the
Government:—

(a) purchase of load carrying vehicles for
bringing agricultural produce of farmers
to the markets;

(b) agricultural implements and machinery to

be distributed amongst growers of the market area;

(xx) holding of agriculture melas, fairs, exhibitions and shows for agriculture publicity and propaganda amongst farmers for improved production;

(xxi) advance of loans on interest to other market committees in the district for carrying out development projects, with the previous sanction of the Government;

(xxii) training of members and staff of market committees and members of the Board of Arbitrators;

(xxiii) purchase/sale of essential agricultural commodities;

(xxiv) any other purpose that may be declared by notification by the Government for improvement of agriculture and agriculture marketing which is calculated to promote the general interest of the farmer.

Levy of surcharge 22. (1) Every person shall be liable for the loss waste or on loss, misapplication of any money or property belonging to a market committee, if such loss, waste or misapplications proved to the satisfaction of the [Director of Agriculture (Economics and Marketing)] or any other officer specially empowered in this behalf by the Government to be the direct consequence of such person neglect or mis-conduct in the performance of his duties while being a member of the market committee.

(2) The person against whom an order under sub-section (1) is made by within one month of the issue of such order, appeal to the Government which shall have the power of confirming modifying or setting aside order.

1 Subs. for the words "Deputy Commissioner" by Act XI of 2004, published in the Balochistan Gazette (Extraordinary) No. 103

August, 2004; passed by Provincial Assembly on 24" August, 2004; and assented by the Governor on 27" August, 2004.

Trade allowance.

BITR Board.

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

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

(2) The Board shall receive and record evidence, and shall have power to administer oaths to parties and witness, and, on requisition in writing signed by the chairman of the Board, the Magistrate authorized by the [Session's Judge] in this behalf shall issue necessary processes for the attendance of witness and the production of documents and material objects required by the Board, and may enforce the said processes as if they were processes for attendance and for production before himself.

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

(4) The decision of the Board of Arbitrators shall be in accordance with majority of votes.

(5) If a majority of votes is not in favour of any proposed decision, the opinion of the chairman of the Board shall prevail.

(6) The decision of a Board of Arbitrators shall:-

(a) be enforced by a civil court having

Bar of suit in

Power to borrow.

Power to annual

absence of
notice.

proceeding

jurisdiction as if it were a decree of
that court; and

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

25. (1) No suit shall be instituted against any market committee or any member or employee thereof or any person acting under the direction of any such market committee, member, or employee for anything done or purporting to be done under this Act until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims has been in the base of a market committee, delivered or left at its office, and in the case of any such member, employee or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left.

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

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

(2) A market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing a 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 or from any other market committee on such conditions and subject to such rules as may be prescribed.

27. (1) Government may by order in writing call for the record and annual any proceeding of a market committee or its

Supersession of

market

committees.

sub-committees which it considers not to be in conformity with law or rules or bye-laws and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to lead to breach of peace, or to cause injury or annoyance to public or to any class or body of persons, or is likely to effect adversely the interest of the market committee or of growers or dealers transaction business in agricultural produce or of any class of function arise working in the notified market areas.

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

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

28. (1) if, in the opinion of the Government a market committee is incompetent to perform or persistently make default in performing the duties imposed on it by or under this Act is in excess of the powers, the Government may, by notification supersede such committee.

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

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

(a)

(b)

All the members including chairman and vice chairman of the market committee shall, as from the date of such publication, be deemed to have ceased to be members of the market committee;

All assets of the market committee shall vest in Government and the Government shall be liable for all the legal liabilities of the market committee subsisting at the date of its supersession upto the limit of the said assets.

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

(4) (a)

(b)

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 market committee or authority constituted as aforesaid.

(i) Where the Government by order under sub-section (3) have appointed an authority other than a new market committee for the carrying out of the functions of

Acquisition of land.

Encroachment.

the superseded market committee,
the Government may _ by
notification determine the period
not exceeding 90 days for which
such authority shall act:

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

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

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

(5) wherever the assets of a market committee vest
in the Government and no new market 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 at the said market committee for any object of
public utility in the area specified in the notification issued
under sub-section (1) of section 4.

29. Where any land is required by a market committee for
carrying out any of its functions under this Act, it shall obtain
the prior approval of the Government before approaching the
collector of the district concerned for acquisition of land under
the 'Land Acquisition Act, 1894.

30. (1) If any person makes an encroachment, movable
or immovable on, over or under a road drain, there or open
space belonging to a market committee without its written

1 ie. Act I of 1894.

Training institution.

Recovery of dues.

permission, the market committee, in addition to instituting criminal proceedings against him may, by notice required the person responsible for any such encroachment to remove the same in a period of seven days, and if the encroachment is not removed within such period, the market committee may cause the encroachment to be removed through its own agency, and the cost incurred thereon by the market committee shall be recoverable as arrears of land revenue.

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

31. (1) The Government may set up a training institute for the training of members and the staff of market committees, dealers, processors and other market functionaries and for the promotion of research in agricultural marketing and allied subjects and may by rules provide:—

(a) for the administration of training institute;

(b) for the compulsory training of members and staff;

(c) for the courses to be studied; and

(d) for the holding of examinations and the award of diplomas and certificates to successful trainees.

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

32. (1) All sums due from a market committee to the Government may be recovered in the same manner as arrears of land revenue.

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

Emergency powers. 33. If at any time Government is satisfied that a situation has arisen in which the purpose of this Act cannot be carried out in accordance with the provisions thereof Government may by notification: —

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

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

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

(3) Whoever contravenes the provisions of section 19 and 23 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

Powers to make 35. (1) The Government may, either generally or specially for any market area or areas, make rules¹ consistent with the Act for carrying out all or any of the purposes thereof.

1 For rules "the Balochistan Agricultural Produce Market General Rules, 1995"; see Balochistan Gazette (Extraordinary) No, 2

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

(1) appointment and removal of members of market committee;

(ii) power to be exercised and the duties to be performed by the market committees;

(iii) election of the chairman and vice-chairman of market committee and their powers and term of office;

(iv) filling of casual vacancies in the office of members or in the office of chairman or vice-chairman of market committees;

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

(vi) management of the market, maximum fee which may be levied by market committees in respect of agricultural produce bought or sold by licences in the notified market areas, and the recovery and disposal of such fee;

(vii) issuance, by market committees of licences to brokers, weigh men, measures, surveyors, warehousemen, changers, palledars, bonitos, talas, tokriwalas, and rehriwalas the form in which such licences shall be issued or renewed and the fee, if any, to be charged thereof;

(viii) the place or places at which agricultural produce shall be weighed, the kind and description of the scales, weights and measures which alone may be used in transaction in agricultural produce notified market area;

(ix)

(x)

(xi)

(x11)

inspection, verification, regulation,
correction and confiscation of scales,
weights and measure in use in a notified
market area;

trade allowances which may be made or

received by any person in any transaction
in agricultural produce in a_ notified

market area;

(a)

(b)

(c)

(d)

(e)

(f)

(g)

constitution, powers and functions
of board of arbitrators;

procedure to be followed by
Board of Arbitrators in the
disposal of reference under this
Act;

transfer of matters and cases from
one Board of Arbitrators to
another and the transfer of money
in such cases;

representation in proceedings
before Board of Arbitrators of
parties who are minors or are
unable to make an appearance;

regulation of the scale of costs which may be allowed in proceedings before a Board of Arbitrators;

prescribing and determining the amount of the fee payable in respect of any proceedings before a Board of Arbitrators.

maintenance, by Board of Arbitrators of registers and records of proceedings before such Board and for the inspection of such registers and records.

prohibition of brokers from acting in the

(xiii)

(xiv)

(xv)

(xvi)

(xvii)

(xviii)

(xix)

(xx)

(xxi)

same transection on behalf of both the buyer and the seller of agricultural produce;

provision of accommodation for storing any agricultural produce brought into the market;

preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of market committees, and the grant of sanction to such plans and estimates;

form in which the accounts of market committee shall be kept, audit and publication of such accounts, and the charge, if any, to be made for audit;

management and regulation of provident fund which may be established by a market committee for the benefit its employees;

preparation and submission for sanction of annual budget and reports and returns to be furnished by a market committee;

investment and disposal of surplus funds of a market committee;

prescribing any matters in respect of which fee shall be payable under this Act,

and fixing the amount of such fee and the mode of payment and recovery thereof;

exemption of persons or classes of persons from the obligation of obtaining licences under section 6;

imposing persons licences under section 6, the duty of making return to market committee at regular intervals of transaction of sale and purchase affected by them or at their place of business, and

Bye-laws.

of producing accounts for inspection and furnishing information when called upon by an authority duly empowered and prescribing the form and mode of verification of, and the particulars to be

entered in such returns as well as the nature of such information; and

(xxii) (a)

(b)

(c)

(d)

(e)

conditions of service of the employees of market committees and their grades of pay.

schedule of the staff that may be employed by market committee.

principles to be followed in making appointments to various posts under market committees and their appointing authorities.

method for the holding of enquiries in disciplinary cases against servants of market committees, penalties to be imposed and appeals against orders imposing penalties.

matters relating to transfer, retirement, training, pension, gratuities, medical aid, travelling and other allowances, leave, conduct of servants, terms and conditions.

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

for:—

- (i) regulation of business;
- (ii) conditions of trading;
- (iii) | delegation of powers duties and functions

Trial of offences.

of sub-committees if any, provided by section 15;

(iv) remunerations of different functionaries not specifically mentioned in this Act working in the notified market area and rendering any service in connection with the sale or purchase of agricultural produce;

(v) appointment and punishment of its employees; and

(vi) such other matters as are in the opinion of the Government necessary or expedient to be provided for; and may provide the contravention thereof shall be punishable on conviction with a fine which may extend to rupees five hundred.

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

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

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

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

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

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

(2) Prosecutions under this Act may be instituted by a person duly authorized by a resolution of the market

committee in this behalf.

(3) All fines recovered from an offender shall be credited to the market committee fund.

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

Validation of 38. Notwithstanding anything contained in this Act all continuance of authorities and all officers who immediately before the functions of enforcement of this Act were exercising functions of market

authorities and committee under the repealed enactments or any other law shall officer continue to exercise their respective under this Act till the market committees are constituted:

Provided that the Government may withdraw all or any of the functions from such authorities or officers as it may deem necessary.

Repeal. 39. (1) 'The Agricultural Produce Market Act, 1939 (IV

of 1939), and sections 86 to 94 of the Balochistan Local Government Ordinance, 1980 (II of 1980), and the *Balochistan Agricultural Produce Markets Ordinance, 1991 (I of 1991), are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid laws, everything done, action taken, obligation, liability, penalty or punishment, incurred, licence granted, inquiry or proceeding made, committees appointed or person appointed or authorized, jurisdiction or power conferred, rule or bye-laws made and order or notification issued under any of the provision of this Act to constitute and so far as may be, deemed to have been respectively done, taken, incurred, commenced appointed, authorized, conferred made or issued under this Act.

1 Repealed by Balochistan Local Government Ordinance, 2001 (XVIII of 2001); promulgated by the Governor Balochistan on

2001; and published in Balochistan Gazette (Extraordinary), dated 9 August, 2001, with such savings as provided in section 13 section (3). Now the Balochistan Local Government Act, 2010 (Act V of 2010), published in Balochistan Gazette (Extraordinary) dated 13th May, 2010; which succeeded the earlier Balochistan Local Government Ordinance, 2001 (XVIII of 2001).

Baln. Ord. I of 1991 was made on 18th February, 1991 and published in the Balochistan Gazette (Extraordinary) No. 4, dated 2 February, 1991.