

THE ISLAMABAD CAPITAL TERRITORY AGRICULTURAL

PRODUCE MARKETS ORDINANCE, 2002

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THE ISLAMABAD CAPITAL TERRITORY AGRICULTURAL
PRODUCE MARKETS ORDINANCE, 2002

ORDINANCE CXVIII OF 2002

An Ordinance to provide for regulation of purchase and sale of agricultural products in the Islamabad Capital Territory

WHEREAS it is expedient to provide for better regulation of purchase and sale of agricultural products and for that purpose to establish markets for agricultural products in the Islamabad capital Territory;

AND WHEREAS the President is satisfied that circumstances exist which renders it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999, read with the Provincial Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance, —

1. Short title, extent and commencement.—(1) This Ordinance may be called the Islamabad Capital Territory Agricultural Produce Markets Ordinance, 2002.

(2) It extends to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once.

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

(a) “agriculture Produce” means'—

(i) barley and its atta, sallu, bhusu;

(ii) bujra (grains) and its atta;

(iii) — cotton unginned (phutti), cotton ginned (lint), cotton waste;

(iv) chillies (green dry and ground):

(v) fodders, viz senji, lucem, shaftal, berseem, shalgham, guara, chari, bajra, maize, javi, barley, wheat, jowur (green and dry) and their seeds

methi, metha, swank, oats, ajwain;

(vi) _ fruits and vegetables (fresh and dry) and their squashes, jams, pickles, cordials, marmalades, chuntnies, sauce, jellies;

(vii) firewood and tanning bark;

(viii) gram (whole and split) and its chollia , atta, kera, surri, bura, wandaa.

(b)

(©)

(d)

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(ix) jute (seed and fibre);

(x) jowar (grains) and its atta;

(xi) _ 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);

(xii) | mehndi (leaves and powder);

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

(xiv) oilseeds; viz., cotton seed, linseed, sarson, raya, toria, taramira, soyabean, sunflower, til, groundnut, castor, palm and their oils, oil cakes, hulls, meals feeds, vegetable ghee;

(xv) _ pulses (whole and split), viz., moong, mash, masour, moth, raj mash, arhar, lobia, gram and other beans;

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

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

(xviii) tobacco leaves, tobacco cured and its snuff or naswur and guraku and

(xix) wheat and its atta maidu, suji, duliu, starch, chukur, bran, bhusa; any other commodity that may hereafter be declared by notification to be agricultural produce for the purposes of this Ordinance;

“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;

“Director of Agriculture” means the Director of Agriculture Industries and Labour Welfare, Islamabad Capital Territory;

“Deputy Commissioner” means the Deputy Commissioner of the district within the boundaries of which the notified marker area concerned is situated;

“Extra Assistant Director Agriculture” means the Extra Assistant Director of Agriculture concerned;

“srower” 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 Co-operative Societies Act, 1912 (II of 1912), who works as a dealer or broker either individually or as a part of a firm of dealers or brokers or is

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

(g) "Government" means the Federal Government;

(h) "market" means a building, block of buildings, enclosure or other area which may be so notified in accordance with the rules made under this Ordinance;

(i) "market committee" means a market committee established under section 7 of this ordinance;

Gj) "notified market area" any area notified under,

(k) "prescribed" means prescribed by rules or bye-laws made Ordinance;

(ik) "prescribed" means prescribed by rules or bye-law made under this Ordinance;

() "Secretary market committee" means the secretary of the market committee concerned;

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

(n) "warehouseman" includes a person who stores any agricultural produce not belonging to himself and charges rent therefore in any form, from the persons at whose instance the said produce in so stored.

3. Notification of intention of exercising control over purchase and sale of agricultural produce in specified area. — Government may, by notification, declare its intention of exercising control over the purchase and sale of such agricultural produce and in such area as may be specified in the notification and such, notification shall state that all objections or suggestions, which may be received by the Deputy Commissioner through Extra Assistant Director of Agriculture within a period to be specified in the notification will be considered:—

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

4. Declaration of notified area (1) After the expiry of the period specified in the notification under section 3 and after considering, such objections and suggestions as may be received before the expiry of the specified period, 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 notified market area for the purposes of this Ordinance 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 re-include 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 the another

person unless exempted by rules made under this Ordinance, shall, within the notified market area, set up, establish or use any place for the purchase or sale of the agricultural produce or purchase such agricultural produce except under and in accordance with, the terms and conditions of a licence granted under the provisions of this Ordinance:—

Provided that a licence shall not be required by a grower who either himself, or through a bona fide agent, sells his own agricultural produce or the produce of his tenant or 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 Ordinance, no person shall be deemed to have violated this provision if he has made an application to the market committee for grant of a licence.

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

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

6. Application for licence fee to be paid and cancellation or suspension of licenses. — (1)
Any person who wishes to work as a dealer in a notified market area may apply on the prescribed form to the market committee concerned for a licence or for the renewal of the licence which shall be granted for such period, in such form, on such conditions and on payment of such fee not exceeding one thousand rupees per annum as may be prescribed:—

Provided that no fee shall be charged from a dealer who is a cooperative society registered under the Co-operative Societies Act, 1925 (Sind Act VII of 1925).

(2) License under this Ordinance 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.

(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) Up to 3 months Rs.1,000.00
- (ii) Up to 6 months Rs.2,000.00

(iii) | Exceeding 6 months Rs.3,000.00

(4) 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 licence and may also direct that such licence shall be renewed for such period not exceeding four months for a first breach and not exceeding nine months for a second or subsequent breach as may be specified in that order:

Provided that no such order shall be passed without giving the licensee an opportunity to show cause within fifteen 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 of the district against such order. The order of the Extra Assistant Director of Agriculture passed after providing an opportunity of being heard to the appellant, if confirmed by the Director of Agriculture, shall be final.

7. Establishment of market committees.— (1) The Government shall by notification establish a market committee for every notified market area.

(2) The market committee constituted and established under the Agricultural Produce Market Act, 1939 (V of 1939) and the Islamabad Capital Territory Local Government Ordinance, 1979 (VI of 1979) shall be deemed to have been constituted under this Ordinance.

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

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

(3) Subject to such rules as may be made by the Government in this behalf, the remaining members shall be elected from amongst growers, dealers, functionaries under section 10(3) and consumer that is to say:—

(a) if the committee is to consist of ten members, there shall be elected;
(i) five members from growers of the notified market area concerned;
(ii) two members from persons licensed under section 6 and one member from persons licensed under section 10 and working as a weigh man,

broker or palledar in the notified market area concerned; and

(iii) | one member from amongst the 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, there shall be elected,—
(i) nine members from growers of the notified market area concerned; and
(ii) five members from persons licensed under section 6 and one member

from persons licensed under section 10 and working as a weighman,
broker or palledar from the notified market area concerned; and

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

(c) for the election the Electoral college shall be—

(i) in the case of grower members, all the elected members of Union Councils in the notified market area concerned;

(ii) in the case of dealer members, all the licensees under section (6) of the notified market area concerned;

(iii) in the case of member in respect of functionaries mentioned in sub-section (3) of section 10, all the licensees under section 10 of the notified market area concerned; and

(iv) in the case of consumer member elected under clause (1), (11) and (iii).

(4) If any question arises as to whether any person is or is not a grower for the purposes of this Ordinance the decision of the Director Agriculture shall be final:—

Provided that the decision shall not be made without providing an opportunity of being heard to the person to be affected thereby.

(5) No 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 elected as a member of the same market committee.

(6) A person shall be eligible as a member of a market committee for two consecutive terms, but shall not be re-elected thereafter unless two consecutive terms have expired before such re-election.

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

9. Oath of office A member, vice -chairman, chairman shall before taking his scat make and subscribe to an oath in such form as may be prescribed.

10. Duties of the market committee.— (1) The market committee shall enforce the provisions of this Ordinance and the rules and bye-law 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, weighment, pressing 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 licences to brokers, weighmen, measurers, surveyors, warehousemen, changers, palledara, boriotas, tolas, tokrewalas 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, Cola.

totrewala and rehriwala shall unless duly authorized by licence carry on his occupation in a notified marked area in respect of agricultural produce.

11. Period of office of members.— Subject to the provisions of section 14, every member shall hold office for a period of two years, from the date of his making oath of office and if on the expiry of this period no person is elected to succeed him, such member shall, unless the Government otherwise directs, continue to hold office until his successor is elected.

12. Removal of members.—The Government may, at any time by notification, after providing him an opportunity of being heard remove any member if such member has in their opinion, been wrongly or improperly elected or has lost the qualification on the strength of which he was elected or whose continuance as a member in the opinion of Government is not desirable.

13. Election of chairman and vice-chairman.— Every market committee shall elect from amongst its members a chairman and vice-chairman:—

Provided that a member who is not a grower shall not be eligible for election as chairman;—

Provided further a member who is nova grower shall also not be eligible for election as vice-chairman of a market committee consisting of seventeen members.

14. Vote of no-confidence. — (1) A chairman or a vice-chairman shall vacate office if a vote of no-confidence is passed against him in the manner prescribed by two-third majority of total number of members of the market committee electing him.

(2) A motion of no-confidence against a chairman or vice-chairman shall not be moved before the expiry of six months from the date of his assumption of the office and a second or subsequent motion shall not be moved except with an interval of six months between the first and second motion or any two subsequent motions.

(3) A motion of no-confidence shall not be competent after the expiry of thirty days beyond every interval of six months provided under sub-section (2) and in such a situation it shall be deemed to have been moved and rejected for purposes of sub-section (2):—

Provided that a member who is not a grower shall not be eligible for election as chairman.

15. Filling of vacancies.— If any vacancy of a member of a market committee occurs due to his death, resignation, transfer or retirement or is caused by the removal of any member in accordance with the provisions of section 12, such vacancy shall be filled in accordance with the provisions of section 8:—

Provided that term of office of the member so elected shall expire on the same date as the term of office of the vacating member would have expired had the latter held office or the full period allowed under section 11 unless there be delay in electing a new member to succeed the member first mentioned, above in which case it shall expire on the date on which his successor is elected.

16. Committee to be a corporate body. — Every market committee shall be a body corporate by such name as the Government may specify in the notification establishing and 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 28, be, competent to acquire and hold property both moveable and immovable and to lease, sell 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:—

Provided further that no market committee shall be competent to exercise any power with regard to immovable property without approval or special, or general directions of the Government or a person authorized by Government in that behalf.

17. Sub-committee and its powers. — (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.

18. Appointment and salaries of officers and servant of market committee.— (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 pensions, gratuities or compassionate allowances 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 liable to be transferred for service in any market committee of the Islamabad Capital Territory.

(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 the regulations applicable to that Government servant.

19. Employees to be deemed to be public servants.— Every person employed by a market committee and every member thereof shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

20. 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 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 subsection (1) shall be binding on a market committee.

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

Provided that no fee shall be leviable,—

(a) in respect of any transaction in which delivery of the agricultural produce bought or sold is not actually made;

(b) on a person who is not a party to a transaction; and

(c) in respect of any subsequent transaction of sale or purchase within the same notified area of an agricultural produce extracted after being subjected to manufacturing processing.

22. Market committee funds.— (1) All moneys received by a market committee shall be deposited into a fund to be called the market committee fund. All expenditure incurred by a market committee under or for the purposes of this Ordinance 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) Every market committee shall, out of its fund, pay to the Government the cost of any special or additional staff employed by the government in consultation with the market committee for giving effect to provisions of this Ordinance in the notified market area.

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

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

23. Purposes for which the fund may expended. —Subject to the provisions of section 22 the market committees fund shall be expended for the following purposes only, namely: —

(a) acquisition of land for the establishment of market or markets;

(b) maintenance and improvement of the markets including construction of storages, platforms small pullies, culverts and roads;

(c) 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;

(d) 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;

(e) providing comforts and facilities such as light, sanitation, shelter, shade, parking, accommodation and water for the persons draught cattle, vehicles and

pack animals coming to the market and similar other purposes;

(f) provision of facilities such as cleaning sets, plants for grading, standardization, packing and processing of agricultural produce.

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

establishment of feeder markets;

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 purposes of the market and the provision of sinking fund in respect of such loans;

expenses incurred to auditing the account of market committee,

payment of traveling allowances to the members and employees of market committees and -embers 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 covered by appropriate Act or Ordinance;
engagement of a lawyer;

subject to previous sanction of the Government —

(1) purchase of load carrying vehicles for bringing agricultural produce of

farmers to the market; and

(2) agricultural implements and machinery to be distributed amongst growers of the market area;

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

advance of loans on interest to other market committees in the district for carrying out development projects with the previous sanction of the

Government;

training of members and staff of market committees and members of the Board of Arbitrators;

purchase or sale of essential agricultural commodities;

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

(y) for the conduct of elections.

24. Levy of surcharge on loss.— (1) Every person shall be liable for the loss, waste or misappropriation of any money or property belonging to a market committee, if such loss, waste or misappropriation is proved to the satisfaction of the Deputy Commissioner or any other officer specially empowered in this behalf to the Government to be the direct consequence of such person's neglect or misconduct 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 may within one month of the issue of such order, appeal to the Government which shall have the power of confirming, modifying or setting aside the order.

25. Trade allowance.— No trade allowance, other than an allowance prescribed by rules or bye-laws made under this Ordinance 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.

26. Board of Arbitrators.— (1) The Government may, by notification, direct that all or any of the disputes other than a dispute to which all the parties are dealers, arising in notified market area, and relating to such matters connected with agricultural produce as may be prescribed shall be referred to a Board of Arbitrators constituted under this Ordinance 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 witnesses and on requisition in writing signed by the Chairman of the Board, the Magistrate authorized by the District Magistrate in this behalf shall issue necessary processes for the attendance of witnesses and the production of documents and material objects required by the Board and may enforce the said processes as if they were processes for attendance and for production before himself.

(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 the Board of Arbitrators shall,—

(a) be enforced by a civil court having jurisdiction as if it were a decree of that court; and

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

27. Bar on suit in absence of notice.— (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 Ordinance, until the expiration of two months next after a notice in writing stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been in the case of a market committee, delivered or left at its office and in the case of any such member, employee or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered, or left:—

Provided that if any such suit is filed without delivering or leaving such notice as aforesaid or before the expiration of the said period of two months or where the plaint does not contain a statement that such notice has been so delivered or left the plaintiff, shall not be entitled to any cost.

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

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

(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 Ordinance, obtain a loan from the Government or from any other market committee on such conditions, and subject to such rules as may be prescribed.

29. Power annual proceedings. — (1) The Government may, by order in writing call for the record and annul any proceeding of a market committee or its subcommittees 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 person 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 in the notified market area:—

Provided that no action under sub-section (1) shall be taken by the Government without providing an opportunity of being heard to the market committee or its sub-committee.

(2) An officer authorized by Government may, by order in writing, suspend within the limits of the notified market, the execution of any resolution or order of a market committee or its sub-committee or prohibit the doing within those limits of any act which is being done or is about to be done in pursuance of or under cover of this Ordinance or any rule or bye-law made thereunder, if in his opinion the resolution or act is in excess of the powers conferred by law or is likely to lead to breach of peace or to causes injury annoyance to public or to any class or body of persons, or is likely to affect adversely the interests of the market committee 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 making 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.

30. Supersession of market committee.— (1), If, in the opinion of the Government a market committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Ordinance or abuses its 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 ensue.—

(a) all the members including the Chairman and Vice Chairman of the market committee shall, as from the date of such publication, be deemed to have ceased to be members of the market committee; and

(b) 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 up to the limit of the said assets.

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

(4) When the Government have made an order under sub-section (3) the assets and liabilities defined in Clause (b) of sub-section (2) 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.

(5) 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 the superseded market committee the Government may by notification determine the period not exceeding ninety 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.

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

(7) 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.

(8) Whenever 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 of 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.

31. Dissolution of the market committees. — (1) Notwithstanding anything contained in the Ordinance, where a general election to the National assembly is announced and the Government is satisfied that it is in the public interest to prevent the Market Committees from using their funds or

influence for political purposes, the Government may, by notification, dissolve the market committee.

(2) On the publication of the notification under sub-section (1),—

(a) all the members including the Chairmen and Vice-Chairmen of the market committees shall, as from the date of such publication, cease to be members of the market committee;

(b) all powers and functions of the market committees shall be exercised and performed by such officer as the Government may appoint in this behalf as Administrator; and

(c) all assets of the market committees shall vest in the Government and the Government shall be liable for all the legal liabilities of the market committees subsisting on the date of their dissolution upto the limit of the said assets till such time new market committees are constituted under section 8.

(3) The market committees dissolved under sub-section (1) shall be reconstituted as soon as possible after the constitution of the Federal Cabinet as a result of the said general election.

32. Acquisition of land.— Where any land is required by a market committee for carrying out any of its functions under this Ordinance, 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 (I of 1894).

33. Encroachments.— (1) If any person makes an encroachment, moveable or immovable on over or under a road drain, Mara or open space belonging to a market committee without its written permission, the market committee, in addition to instituting criminal proceedings against him, may, by notice, require the person responsible for any such encroachment to remove the same 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:—

Provided that no action shall be taken without providing an opportunity of being heard to the person to be affected thereby.

(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.

34. Training institute. — (1) The Government may set up a training institute for the training of members and the staff of market committee 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.

35. Recovery of dues.— (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

36. Emergency powers. — If at any time Government is satisfied that a situation has arisen in which the purposes of this Ordinance 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 officer as it may direct; and

(b) assume to itself all or any of the powers vested in or exercisable by any market committee; and such notification may contain such incidental and consequential provisions as may appear to Government to be necessary or desirable for giving effect to the objects of the notification.

37. Penalties.— (1) Whoever contravenes the provisions of section 4 shall be punishable with 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 conviction, during which the contravention is continued.

(2) Whoever contravenes the provisions of sub-section (3) of section 19, shall 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 21 and 25 shall be punishable with fine which may extend to one thousand rupees.

38. Power to make rules.— (1) The Government may, either generally or specially for any notified market area or areas, make rules consistent with this Ordinance, for carrying out all or any of the purposes thereof.

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

(a) election and removal of members of market committees;

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

(c) election of the Chairman and Vice-Chairman of market committees and their powers and term of office;

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filling of casual vacancies in the office of members or in the office of Chairman or Vice Chairman of market committees;

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;

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

issuance by market committees of licenses to brokers, weighmen, measurers, surveyors, warehouseman, changers, palledars, boriotus, tolas tokrawala and rehriwalas the form in which and the conditions under which, such licenses shall be issued or renewed and the fee if any to be charged thereof;

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 in a notified market area;

inspection, verification, regulation, correction and confiscation of scales, weights and measures 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;

(i) constitution, powers and functions of Board of Arbitrators;

(ii) procedure to be followed by Board of Arbitrators in the disposal of references under this Ordinance;

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

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

(v) regulation of the scale of costs which may be allowed proceedings before a Board of Arbitrators;

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

(vii) 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 same transaction on behalf of both the buyer and the seller of agricultural produce;

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

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

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

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

investment and disposal of surplus funds of market committees;

prescribing any matters in respect of which fee shall be payable under this Ordinance, 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 licenses under section 6;

traveling expenses that may be paid to the members and employees of market committees;

settlement of any question as to whether any person is or is not in power; appointment of members of market committee;

submission of a panel of growers non-official members and persons licensed under section 6 and 10;

imposing on persons licensed under section 6, the duty of making return to market committee at regular intervals of transactions of sale and purchase affected by them, or at their place of business and of producing accounts for inspection and furnishing information when called upon by an authority duly empowered and prescribing the form and mode of verification of, and the particulars to be entered in such returns as well as the nature of such information; and

(i) conditions of service of the employees of market committees and their grades of pay;

(ii) schedule of the staff that may be employed by the market committees;

(iii) rules to be followed in making appointments to various posts under market committees and their appointing authorities;

(iv) method for the holding of inquiries in disciplinary, cases against

servants of market committees, penalties to be imposed and appeals against orders imposing penalties; and

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

(3) The Islamabad Capital Territory Agricultural Produce Markets Rules, 1940, shall remain operative to the extent they are consistent with this Ordinance till such time new rules are made under this Ordinance.

39. Bye-laws.—(1) Subject to this Ordinance and rules made by the Government under section 38, a market committee may in respect of the notified market area under its management, make bye-laws for,—

(a) regulation of business;
(b) conditions of trading;

(c) delegation of powers, duties and functions of sub-committees if any, provided by section 17;

(d) remunerations of different functionaries and specifically mentioned in this Ordinance working in the notified market area and rendering any service in connection with the sale or purchase of agricultural produce;

(e) appointment and punishment of its employees ; and

(f) such other matters as are in the opinion of the Government necessary or expedient to be provided for; and may provide that 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 Ordinance is subject to the condition of the bye-laws being made after the previous publication, in such manner as may be prescribe.

(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 reframing.

(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 market committee and thereupon the bye-laws shall cease to have effect.

40. Trial of offences.— (1) No offence punishable under this Ordinance or any rule or bye-laws made thereunder shall be tried by a Court not inferior to that of Magistrate of the First Class.

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

(3) All fines recovered 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 trial Court.

41. Authorities and officers.— Notwithstanding anything contained in this Ordinance, all authorities and all officers who immediately before the commencement of this Ordinance were exercising functions of market committees under any other law shall continue to exercise their, respective functions under this Ordinance till the market committees are re-constituted:—

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