(317) (331)

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 8th November 1960

G.S.R. 1320.—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extends to the Union territory of Himachal Pradesh the Patiala Agricultural Produce Markets Act, 2004 BK. (Act No. 14 of 2004 BK.), as at present in force in the State of Punjab, subject to the following modifications, namely:—

MODIFICATIONS

A. *General*

1. Whenever an expression mentioned in column 1 of the Table below occurs in the Act, then, unless that expression is by this notification directed to be otherwise modified, or to stand unmodified, or to be omitted, there shall be substituted therefor the expression set opposite to it in column 2 of the said Table and there shall also be made in any sentence in which that expression occurs such consequential amendments as the rules of grammar may require.

TABLE

1	2
State Government/ Government of the State	Lieutenant Governor
Gazette, Official Gazette of the State	Himachal Pradesh Gazette.
State Marketing Board	Himachal Pradesh, Marketing Board.

B. *Special*

2. For sub-section (2) of section 1, the following sub-sections shall be substituted, namely:—

"(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force on such date as the Lieutenant Governor, may by notification in the Himachal Pradesh Gazette, appoint."

3. In section 2,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) "Agricultural produce" means harvested potato, ginger, apple, wheat, barley, rice, maize, sugarcane (gur and shakkar), chillies and pulses or any other crop which may hereafter be declared by Lieutenant Governor by notification in the Himachal Pradesh Gazette to be agricultural produce for the purpose of this Act".

(ii) in clause (c). for the words "Commissioner for Agriculture", the words "Director of Agriculture" shall be substituted.

(iii) after clause (c), the following clause shall be inserted, namely:—

"(cc) "Lieutenant Governor" means the Lieutenant Governor of Himachal Pradesh;"

(iv) after clause (d), the following clause shall be inserted, namely:—

"(dd) "Notification" means notification in the Himachal Pradesh Gazette;"

4. In section 3—

(i) in sub-section (1), for the words "in the State" occurring at the end, the words "in the Union territory of Himachal Pradesh" shall be substituted; and

(ii) in sub-section (7), for the words "Schedule of powers on a 1st Class", the words "Financial Rules of the Central Government on the" shall be substituted.

5. In sub-section (2) of section 4, for the words "of the State", the words "of the Government" shall be substituted.

6. For the first proviso to sub-section (1) of section 6, the following proviso shall be substituted, namely.—

"Provided that if any person carrying on any business of the nature specified in sub-section (2) of section 4 in a notified market area fails to apply for a licence on or before such date as the Himachal Pradesh Marketing Board may by notification appoint in respect of that area, the licensing authority may refuse to grant him a license until after the expiry of such period not exceeding three years as it may think fit".

7. In section 8,—

(i) In sub-section (2), for the words "the salaried servants of the State", the words "the salaried servants of the Government" shall be substituted;

(ii) In sub-section (4), for the words "the District Nazims", the words "the Deputy Commissioners" shall be substituted;

(iii) In sub-section (5), for the words "in the State", the words "in the Union territory of Himachal Pradesh" shall be substituted.

8. In clause (a) of sub-section (2) of section 20, for the words "also pay to the State" and "employed by the State" the words "also pay to the Government" and "employed by the Government" respectively shall be substituted.

9. In sub-section (2) of section 24, for the word "State", the word "Government" shall be substituted.

10. In section 25,—

(i) in clause (b) of sub-section (2), for the word "State", the word "Government" shall be substituted;

(ii) in clause (a) of sub-section (3), for the words "vesting in the State", the words "vesting in the Government" shall be substituted.

(iii) in sub-section (4), for the words "vest in the State", the words "vest in the Government" shall be substituted.

11. In clause (a) of section 25A, for the word "State", the words "Lieutenant Governor" shall be substituted.

12. In sub-section (3) of section 29, for the words "State revenues" the words "Government revenues" shall be substituted.

13. In section 31, for the word "State", the word "Government" shall be substituted.

ANNEXURE

The Patiala Agricultural Produce Markets Act, 2004 BK (Act No. XIV of 2004 BK), as extended to the Union territory of Himachal Pradesh.

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

Preamble.—Whereas it is expedient to provide for the better regulation of the purchase and sale of agricultural produce in the State 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. **Short title, extent and commencement.**—(1) This Act may be called the Patiala Agricultural Produce Markets Act, 2004.

(2) It extends to the whole of Union territory of Himachal Pradesh.

(3) It shall come into force on such date as the Lieutenant Governor, may by notification in the Himachal Pradesh Gazette, appoint.

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

(a) "Agricultural produce" means harvested potato, ginger, apple, wheat, barley, rice, maize, sugarcane (gur and shakkar), chillies and pulses or any other crop which may hereafter be declared by the Lieutenant Governor by notification in the Himachal Pradesh Gazette to be agricultural produce for the purpose of this Act.

(b) "Dealer" means any person who within the notified market area sets up, establishes or continues or allows to be continued any place for the purchase or sale of the agricultural produce notified under sub-section (1) of section 4 or purchases or sells, such agricultural pro duce.

(c) "Grower" means a person who grows agricultural produce personally through tenants or otherwise but shall not include a grower who works as a dealer or a broker or who is a partner of a firm of dealers or brokers or is otherwise engaged in the business of disposal or storage of agricultural produce. If a question arises as to whether any person is a grower or not for the purposes of this Act, the decision of the Director of Agriculture shall be final.

(cc) "Lieutenant Governor" means the Lieutenant Governor of Himachal Pradesh.

(d) "Market" means a building, block of buildings, enclosure or other area which may be so notified in accordance with the rules made under this Act.

(dd) "Notification" means notification in the Himachal Pradesh Gazette;

(e) "Notified market area" means any area notified under section 4, under this Act.

(f) "Prescribed" means prescribed by rules or bye-laws made, under this Act.

(g) "Trade allowance" includes such allowances as have the sanction of custom in the notified area concerned.

3. **Himachal Pradesh Marketing Board.**—(1) The Lieutenant Governor may, for exercising the powers and functions conferred on and assigned to the Himachal Pradesh Marketing Board under this Act, establish and constitute a Himachal Pradesh Marketing Board consisting of not less than ten and not more than twelve persons out of whom not more than two-thirds shall be non-officials to be nominated by the Lieutenant Governor in the proportion of three to two from among the growers and dealers respectively in the Union territory of Himachal Pradesh.

(2) The Director of Agriculture and the Marketing Officer shall respectively be the Chairman and the Secretary of the Board.

(3) The term of office of the non-official members of the Board shall be three years.

(4) The Lieutenant Governor may, remove any non-official member of the Board, who is, in his opinion, unfit to act as a member or is remiss in the discharge of his duties or whose continuance as a member of the Board is considered to be prejudicial to its interest.

(5) Four members shall constitute a quorum at a meeting of the Board. All questions that may come up before a meeting of the Board shall be determined by a majority of votes of the members present and voting, and in case of equality of votes, the Chairman may exercise a casting vote.

(6) An estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared by the Board and submitted for sanction to the Lieutenant Governor not later than the first week of March each year. On the sanction of the Budget by the Lieutenant Governor the Himachal Pradesh Marketing Board shall have power to operate upon it.

(7) The Chairman of the Board and its Secretary shall have the same powers as are respectively conferred under the Financial Rules of the Central Government on the Head of Department and a Head of an Office.

(8) The Lieutenant Governor shall exercise superintendence and control over the Himachal Pradesh Marketing Board and may call for such information

as he may deem necessary and, in the event of his being convinced that the Himachal Pradesh Marketing Board is not functioning properly, he may suspend the Board and, till such time as a new Board is constituted, make such arrangement for the exercise of the functions of the Board as he may think fit.

(9) The Himachal Pradesh Marketing Board shall exercise superintendence and control over all Market Committees established and constituted under this Act.

(10) The Himachal Pradesh Marketing Board may, on administrative grounds, transfer employees of one Market Committee to another and of a Market Committee to the Himachal Pradesh Marketing Board and *vice versa*.

(11) The Himachal Pradesh Marketing Board may delegate any of its powers to the Chairman or any one or more members of the Board.

(12) The Himachal Pradesh Marketing Board or the Director of Agriculture or the Marketing Officer shall have the power to call for any information or return from a Market Committee or a dealer and shall also have the power to inspect the accounts of a Market Committee or a dealer and, in case of a dealer if any irregularity comes to its or his notice, shall have the power to suspend or cancel his license.

(13) The Himachal Pradesh Marketing Board 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. Such notification shall state that any objections or suggestions which may be received by the Himachal Pradesh Marketing Board within a period to be specified in the notification, will be considered:

Provided that such period shall not be less than one month.

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 Himachal Pradesh Marketing Board 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 Act in respect of the agricultural produce notified under section 3 or any part thereof.

(2) After the date of issue of such notification and from such later date as may be specified therein, no person unless exempted by rules framed under this Act, shall, either for himself or on behalf of another person or of the Government within the notified market area set up, establish or continue or allow to be set up, established or continued any place for the purchase and sale of the agricultural produce so notified, or purchase or sell such agricultural produce except under a license granted in accordance with the provisions of this Act, the rules and bye-laws made thereunder and the conditions specified in the license:

Provided that a license shall not be required by a grower who sells himself or through a bonafide agent his own agricultural produce or the agricultural produce of his tenants on their behalf or by a person who purchases any agricultural produce for his private use.

5. **Authority to whom applications for grant of licenses are to be made.**—The Himachal Pradesh Marketing Board shall by rules made under this Act specify the authority to whom an application may be made for the grant of a license.

6. **Applications for licenses, fees to be paid and cancellation or suspension of license.**—(1) Any person may apply to the authority specified for a license which shall be granted for such period, in such form, on such conditions and on payment of such fees not exceeding Rs. 10 as may be prescribed:

Provided that if any person carrying on any business of the nature specified in sub-section (2) of section 4 in a notified market area fails to apply for a licence on or before such date as the Himachal Pradesh Marketing Board may by notification appoint in respect of that area, the licensing authority may refuse to grant him a license until after the expiry of such period not exceeding three years as it may think fit:

Provided further that the Himachal Pradesh Marketing Board may in its discretion issue a license to such person and may before issuing such license impose such penalty not exceeding two thousand rupees as they may think fit:

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Provided further that the aforesaid provisos shall not come into force until notified by the Himachal Pradesh Marketing Board in the Himachal Pradesh Gazette.

(2) The Himachal Pradesh Marketing Board or an officer not below the rank of a Gazetted officer specifically empowered in this behalf may on being satisfied that there has been a breach of any of the conditions specified in a license by an order in writing, cancel or suspend such license and may also direct that such license shall not be renewed for such period not exceeding five months for a first breach and not exceeding nine months for a second 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 why such an order should not be passed.

7. **Establishment of market Committee.**—The Himachal Pradesh Marketing Board shall by notification establish a Market Committee for every notified market area and shall specify its headquarters.

8. **Constitution of the Committee.**—(1) A Market Committee shall consist of nine or sixteen members as the Himachal Pradesh Marketing Board may in each case determine.

(2) Of these members one may be appointed by the Himachal Pradesh Marketing Board from amongst the salaried servants of the Government by virtue of his office.

(3) The remaining members shall be appointed by the Himachal Pradesh Marketing Board out of a panel of names 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 nine members, there shall be appointed—

(i) five members from growers of the district; and

(ii) three members from licensed dealers;

(b) if the Committee is to consist of sixteen members, there shall be appointed—

(i) nine members from growers of the district; and

(ii) six members from licensed dealers.

(4) The panel of the names will be given by the Deputy Commissioners concerned.

(5) Whenever any member dies, resigns, ceases to reside in the Union territory of Himachal Pradesh or becomes incapable of acting as a member of the Committee, the Himachal Pradesh Marketing Board in its discretion may, on the submission of another panel, or in default of such panel, appoint another person to be a member in his stead.

(6) No act done by the Committee shall be called into question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

9. **Duties of the Committee.**—(1) It shall be the duty of the Market Committee to enforce the provisions of this Act and the rules and bye-laws made thereunder in the notified market area and, when so required by the Himachal Pradesh Marketing Board, to establish a market therein providing such facilities for persons visiting it in connection with the purchase, sale, storage, weighment, pressing and processing of agricultural produce concerned as the Himachal Pradesh Marketing Board may from time to time direct.

(2) Subject to such rules as the Lieutenant Governor may make in this behalf it shall be the duty of Market Committee to issue licenses to brokers, weighmen, measurers, surveyors and warehousemen for carrying on their occupation in that notified market area in respect of agricultural produce as defined in this Act and to renew, suspend or cancel such licenses.

(3) No broker, weighman, measurer, surveyor or warehouseman shall, unless duly authorised by license, carry on his occupation in a notified market area in respect of agricultural produce as defined in this Act.

10. **Period of office of members.**—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 when such period expires, no person has been appointed to succeed him such member shall, unless the Himachal Pradesh Marketing Board otherwise directs, continue to hold office until his successor is appointed.

11. **Removal of Members.**—The Himachal Pradesh Marketing Board may at any time during the period of his office remove by notification any member if such member has, in its opinion, been guilty of misconduct or neglect of duty; provided that before the Himachal Pradesh Marketing Board notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing.

12. **Election of Chairman and Vice-Chairman.**—Every Market Committee shall elect from among its members a Chairman and a Vice-Chairman.

13. **Filling of vacancies.**—If through death, resignation, retirement, transfer or removal in accordance with the provisions of section 11 any vacancy occurs, the Himachal Pradesh Marketing Board may appoint a member to fill such vacancy in accordance with the provisions of section 8:

Provided that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had 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 successor is appointed by the Himachal Pradesh Marketing Board.

14. **Incorporation of Committee.**—Every Market Committee shall be a body corporate by such name as the Himachal Pradesh Marketing Board may specify in the notification establishing it, shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall, subject to the provisions of section 24, be competent to acquire and hold property both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established:

Provided that no 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-fourths of the members of the Committee.

15. **Sub-Committee and Joint Committees and delegation of powers.**—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, and may delegate to any two or more of its members and withdraw from them such of its powers or duties and in such manner as may be prescribed.

16. **Appointments and salaries of officers and servants of Market Committee.**—(1) With the previous approval of the Chairman of the Himachal Pradesh Marketing Board, a Market Committee may employ such officers and servants as may be necessary and proper for the management of the Market Committee and may assign to such officers and servants such duties as it thinks fit and shall have power to control and punish them.

(2) Every Officer or servant against whom an order of punishment has been made by a Market Committee shall be entitled to appeal to the Himachal Pradesh Marketing Board within a period of thirty days from the date of the order appealed against:

Provided that the appellate authority may for sufficient cause entertain the appeal if made after the expiry of the aforesaid period.

(3) In computing the period of thirty days the period spent for obtaining a copy of the order appealed against shall be excluded, and a copy of the order shall be supplied to the person concerned free of cost.

(4) Any person aggrieved by the order of the appellate authority may further appeal to the Lieutenant Governor within a period of thirty days of the date of the appellate order; and the provisions of the proviso to sub-section (2), and

sub-section (3), shall apply to such further appeal in the same manner as they apply to an appeal under sub-section (2).

17. **Persons who are to be deemed public servants within the meaning of section 21 of Indian Penal Code.**—Every member and servant of the Himachal Pradesh Marketing Board and of a Market Committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

18. **Execution of contracts.**—(1) Every contract entered into by the Market Committee shall be in writing and shall be signed on behalf of the Market Committee by the Chairman or, if, for any reason he is unable to act by the Vice-Chairman and two other members of the Committee and shall be sealed with the common seal of the Committee.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a Market Committee.

19. **Levy of fees.**—The Market Committee may, subject to such rules as may be made in this behalf, levy fee on the agricultural produce bought or sold by licensees in the notified area and the Lieutenant Governor may make rules specifying the maximum rates of the said fees:

Provided that—

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

(b) a fee shall be leviable only on the parties to a transaction in which delivery is actually made.

20. **Market Committees Fund.**—(1) All moneys received by a Market Committee shall be paid into a fund to be called the "Market Committee Fund". All expenditure incurred by the Market Committee under or for the purposes of this Act shall be defrayed out of the said fund, and any surplus remaining after such expenditure has been met shall be invested in such manner as may be prescribed by rules.

(2) (a) Every Market Committee shall, out of its fund, pay to the Himachal Pradesh Marketing Board 20 per cent of the moneys received by it on account of Himachal Pradesh Marketing Board office expenses and such other expenses incurred by it in the interest of the Marketing Committees generally and also pay to the Government the cost of any special or additional staff employed by the Government in consultation with the Committee for giving effect to the provisions of this Act in the notified market area.

(b) The Lieutenant Governor 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 he thinks fit. His decision determining the amount payable by any Market Committee shall be final.

20A. **Himachal Pradesh Marketing Board Fund.**—All receipts of the Board shall be credited into a fund to be called the Himachal Pradesh Marketing Board Fund. All expenditure incurred by the Board shall be defrayed out of the said fund which shall be jointly operated upon by the Chairman and the Secretary. This fund shall be utilised for such purposes as may be prescribed by the Lieutenant Governor.

21. **Purposes for which funds may be expended.**—Subject to the provisions of section 20 the Market Committee Fund shall be expended for the following purposes only:—

(i) the acquisition of a site or sites for the market;

(ii) the maintenance and improvement of the market;

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

(iv) the provision and maintenance of standard weights and measures;

(v) the pay, leave allowances, gratuities, compassionate allowances, and contributions towards leave allowances, or provident fund of the persons employed by the Market Committee;

(vi) the payment of interest or loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans;

(vii) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the agricultural produce concerned and propaganda in favour of agricultural improvement and thrift;

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

(ix) the expenses incurred in auditing the accounts of the Committee;

(x) with the previous sanction of the Himachal Pradesh Marketing Board any other purpose which is calculated to promote the general interest of the market; and

(xi) for the payment of travelling allowance to the members of the Market Committee as prescribed.

22. **No trade allowance permissible except as prescribed by rules or bye-laws.**—No trade allowance, other than 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 the agricultural produce concerned and no Civil Court shall, in any suit or proceeding arising out of any such transaction, recognise any trade allowance not so prescribed.

23. **Bar of Suits 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 Committee, member or employee for anything done or purporting to be done under this Act, until the expiration of three 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 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 suit shall be dismissed unless it is instituted within six months from the date of the accrual of the cause of action.

24. **Power to borrow.**—(1) The Market Committee may, with the previous sanction of the Himachal Pradesh Marketing Board raise the money required for carrying on the purposes for which it is established on the security of any property vested in and belonging to the Market Committee and of any fees leviable by the Market Committee under this Act.

(2) The Market Committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Government on such conditions and subject to such rules as may be prescribed.

25. **Supersession of Market Committee.**—(1) If, in the opinion of the Himachal Pradesh Marketing Board a Market Committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, the Himachal Pradesh Marketing Board may, by notification, supersede such Committee:

Provided that before issuing a notification under this sub-section the Himachal Pradesh Marketing Board 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 the notification under sub-section (1) superseding a Market Committee, the following consequences shall ensue:—

(a) 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 Committee;

(b) all assets of the Committee shall vest in the Government and it shall be liable for all the legal liabilities of the Committee subsisting at the date of its supersession upto the limit of the said assets;

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(c) the Himachal Pradesh Marketing Board may at its discretion, by order constitute either a new Committee as provided under section 7 or such other authority for the carrying out of the functions of the Committee as the Himachal Pradesh Marketing Board may deem fit.

(3) (a) When the Himachal Pradesh Marketing Board has made an order under clause (c) of sub-section (2) the assets and liabilities defined in sub-section (2)(b) vesting in the Government at the date of such order shall be deemed to have been transferred on the date of such order to the new Committee or authority constituted as aforesaid.

(b) (i) Where the Himachal Pradesh Marketing Board by order under paragraph (c) of sub-section (2) of section 25 has appointed an authority other than a new Committee for the carrying out of the functions of the superseded Committee, the Himachal Pradesh Marketing Board may by notification determine the period for which such an authority shall act. Such period shall not be longer than three years:

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

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

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

(4) Whenever the assets of a Committee vest in the Government and no new Committee or authority is appointed in its place the Himachal Pradesh Marketing Board shall employ the balance of the assets remaining after the discharge of the subsisting legal liabilities of the said Committee for any object of public utility in the area specified in the notification issued under section 3.

25. A. **Emergency powers.**—If at any time the Lieutenant Governor is satisfied that a situation has arisen in which the purposes of this Act, cannot be carried out in accordance with the provisions thereof, he 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 the Lieutenant Governor or such person or persons as the Lieutenant Governor may direct.

(b) assume to himself 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 the Lieutenant Governor to be necessary or desirable for giving effect to the objects of the notification.

26. **Penalties.**—(1) Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention, with a fine which in addition to such fine as aforesaid, may extend to thirty 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 9, shall, on conviction, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing contravention with a fine which, in addition to such fine as aforesaid, may extend to two rupees for every day after the date of first conviction during which the contravention is continued.

(3) Whoever contravenes the provisions of section 22 shall on conviction be punishable with fine which may extend to one hundred rupees.

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

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

(i) the appointment of members of a Market Committee;

(ii) the powers to be exercised and the duties to be performed by the Market Committee;

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(iii) the election of the Chairman and Vice-Chairman of such Committee, their powers and term of office;

(iv) the filling of casual vacancies in the office of members or in the office of Chairman or Vice-Chairman of the Market Committee;

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

(vi) generally, for the guidance of the Market Committee;

(vii) management of the market, maximum fees which may be levied by the Himachal Pradesh Marketing Board in respect of the agricultural Produce bought or sold by licenses in any notified market area, and the recovery and disposal of such fees;

(viii) the issue by a Market Committee of licenses to brokers, weighmen, measurers, surveyors and warehousemen, the form in which, and the conditions under which, such licenses shall be issued or renewed, and the fees, if any, to be charged therefor;

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

(x) the inspection, verification, regulation, correction and confiscation of scales, weights and measures in use in a notified market area;

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

(xii) the provision of facilities for the settlement by arbitration or otherwise of any dispute between a buyer and a seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the price or rate to be paid, allowances for wrappings, dirt, or impurities or deductions for any cause.

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

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

(xv) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the Market Committee, and the grant of sanction to such plans and estimates;

(xvi) the form on which the accounts of a Market Committee shall be kept, the audit and publication of such accounts, and the charges, if any, to be made for such audit;

(xvi-a) the management and regulation of Provident Funds which may be established by Market Committee for the benefit of its employees;

(xvii) the preparation and submission for sanction of an annual budget and the reports and returns to be furnished by a Market Committee;

(xviii) the investment and disposal of the surplus funds of a Market Committee;

(xix) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any market;

(xx) determining the scale of fees payable for the issue or renewal of licenses and for prescribing the form of a license and the conditions under which a license shall be issued;

(xxi) fixing the maximum annual fees which may be levied by the Market Committee in respect of licenses granted to traders under section 4 and on the agricultural produce bought or sold by them in the notified area and the recovery of such fees;

(xxii) exemption of persons or classes of persons from the obligation of obtaining licenses under section 4;

(xxiii) specifying the authority to which applications for obtaining licenses shall be made;

(xxiv) the realisation or disposal of fees recoverable under the Act or under any rules or bye-laws made under this Act;

(xxv) the travelling expenses that may be paid to the members of Market Committee;

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

(xxvii) the appointment of members of a Marketing Committee.

(xxviii) the payment to the employees of the Himachal Pradesh Marketing Board and Market Committees of leave allowance, gratuities, or compassionate allowance and contribution to any provident fund which may be established for the benefit of such employees;

(xxix) the penalties to be imposed upon the employees of the Himachal Pradesh Marketing Board and Market Committees, including the manner of imposing such penalties and the right of appeal against such penalties;

(xxx) nature and status of the servants of the Himachal Pradesh Marketing Board and Market Committees.

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

28. **Bye-laws.**—(1) Subject to any rules made by the Lieutenant Governor under section 27, the Himachal Pradesh Marketing Board may, in respect of the notified market area, make bye-laws for—

(i) the regulation of business;

(ii) the conditions of trading;

(iii) the appointment and punishment of its employees and the employees of the market Committees;

(iv) the payment of salaries, gratuities, and leave allowance to such employees; and

(v) the delegation of power, duties, and functions of the Sub-Committee, if any, provided by section 15, and may provide that contravention thereof shall be punishable on conviction, by a competent Magistrate, with a fine which may extend to fifty rupees.

(2) No bye-law shall take effect until it has been published for information and notified in the Himachal Pradesh Gazette.

29. **Trial of offences.**—(1) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by a court inferior to that of a Magistrate of the first class.

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

(3) All fines received from an offender shall be credited to the Government revenues and grant equivalent to such fines shall be paid to the Market Committee.

30. **Appeals.**—(1) In all cases in which power under section 6 has been exercised by a Gazetted Officer specially empowered in this behalf an appeal shall lie to the Himachal Pradesh Marketing Board in the manner prescribed.

(2) Any person objecting to the order passed by the Himachal Pradesh Marketing Board may appeal to the Lieutenant Governor, whose decision in the matter shall be final.

31. **Recovery of sums due to Government from Market Committee.**—All sums due from a Market Committee to the Government may be recovered in the same manner as arrears of land revenue.

(No. F.4/2/59-Judl. II)
UTL. 27

K. R. PRABHU, Dy. Secy.

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