

THE AGRICULTURAL PRODUCE MARKETS ACT,

[BURMA ACT XVII, 1941.] (24th May, 1941.)

Application
of Act.

1. (1) This Act shall apply in the first instance only to ground-nuts and cotton, but the Government may in accordance with the provisions of sub-section (2) apply it to any other agricultural produce.

Power to
apply Act
to other
produce.

(2) The Government may publish in not less than four successive issues of the Gazette a draft notification applying the provisions of this Act to any agricultural produce other than ground-nuts or cotton. After such publication the draft shall be laid before both Chambers of the Union Parliament which may either confirm or reject it.

If the draft is confirmed by the Union Parliament it shall be published as a notification and thereupon the provisions of this Act shall apply to the agricultural produce specified in the notification.

Definitions.

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

- (a) "Committee" means a Markets Committee established under section 5;
- (b) "grower of agricultural produce" includes a person who grows agricultural produce either himself or through the agency of a tenant or servant, or a person whose main income is derived from rents or from loan repayments in the form of produce, but does not include a dealer or broker in agricultural produce although he may also grow such produce;
- (c) "notified area" means an area notified under section 4;
- (d) "notified agricultural produce" means such agricultural produce as is notified under section 4;
- (e) "prescribed" means prescribed by the rules or the bye-laws made under this Act;
- (f) "regulated market" means a market established under section 5.

(2) If a question arises whether any person is or is not a grower of agricultural produce for the purpose of this Act, the decision of the Deputy Commissioner of the district in which the person permanently resides shall be final.

Notification
of intention
of exercising
supervision
over pur-
chase and
sale of
agricultural
produce in
specified
area.

3. (1) Subject to the provisions of section 1, the Government may, after consulting such local authorities as it may deem necessary, or upon a representation made by local interests, by notification, declare its intention to provide for the better regulation of the buying and selling of agricultural produce of such kind and in such area as may be specified in the notification.

(2) Such notification shall state that objections or suggestions which may be received by the Government within a period specified in the notification will be considered by it.

4. After the expiry of the period specified in the notification under section 3 and after considering such objections and suggestions as may have been received, the Government may, by notification, declare any or all of the agricultural produce specified under section 3 to be notified agricultural produce and the area specified under section 3 or any portion thereof to be a notified area for the purposes of this Act in respect of such notified agricultural produce.

Declaration
of notified
area.

5. (1) The Government shall, after the issue of the notification under section 4, establish a Markets Committee for every notified area.

Establish-
ment of
Markets
Committee.

(2) It shall be the duty of the Committee to enforce the provisions of this Act and the rules and bye-laws made thereunder in such notified area and, when so required by the Government, to establish a market or markets therein, providing for such facilities as the Government may from time to time direct for the purpose of regulating the purchase and the sale of the notified agricultural produce.

6. (1) From the date of the establishment of any market under section 5, or from such later date as may be specified, no person shall within the notified area set up, establish, or continue any place for the sale, or any place for the purchase, of the notified agricultural produce except under a licence granted by the Government or by its authorized agent and except in accordance with the provisions of this Act and of the rules and bye-laws made thereunder and the conditions specified in the licence.

Prohibition
of trading
except under
licence

Explanation.—(A) A person shall not be deemed to set up, establish or continue, a place for the sale of agricultural produce—

- (a) if he sells only the agricultural produce resulting from his activities as a grower of agricultural produce, or
- (b) if he sells agricultural produce by retail in quantities not exceeding those prescribed, or
- (c) if he establishes or maintains a market for such retail sale of agricultural produce.

(B) A person shall not be deemed to set up, establish or continue a place for the purchase of agricultural produce if he purchases agricultural produce for his private use and in quantities not exceeding those prescribed.

(2) A licence under sub-section (1) for the sale of notified agricultural produce within the notified area but outside a regulated market shall not be refused to an applicant who has stored within the notified area a larger quantity of notified agricultural produce than such minimum as may be prescribed by a rule if he undertakes—

- (a) to sell under the licence—
 - (i) only notified agricultural produce, which he has stored within the notified area, and
 - (ii) only at the place where he has stored it, and
 - (iii) only in quantities not less than those prescribed by a rule, and

(b) to employ for the purpose of such sales only brokers, weighmen, measurers and surveyors who are licensed by the Committee to act as such.

(3) For breach of any of the conditions thereof the Government may, on the report of the Collector of the district or of the Committee, and after such enquiry as it may deem fit, cancel or suspend any licence granted under sub-section (1).

Constitution of Committee.

7. (1) Every Committee shall consist of ten members. Of these five shall be elected by the growers of notified agricultural produce within the notified area in such manner as may be prescribed, one shall be a member nominated by the Government, one shall be elected by the District Council of the district in which such notified area is situated, one by the Municipality, if any, of the notified area, and the remainder shall be elected by traders in the notified area in such manner as may be prescribed.

(2) In the event of any or all of the constituent bodies refusing or failing to elect members the Government shall nominate the number of members required to represent the respective interests and make up the total of ten.

(3) Every member shall hold office for a period of three years from the date of his election or nomination as the case may be.

(4) Every Committee shall elect one of its members to be its Chairman.

Incorporation of Committee.

8. Every Committee shall be a body corporate under such name as the Government may specify in the notification establishing it, and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall 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 do all other things necessary for the purpose 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 by a majority of three-fourths of its members and that such transfer shall be subject to the sanction of the Government.

Sub-committees and joint-committees and delegation of powers.

9. A Committee may appoint three or more of its members to form a sub-committee or a joint-committee with any other Committee for the conduct of any work, or to report on any matter, or may delegate to any one or more of its members such of its powers or duties as it may think fit for a particular purpose or time.

Appointments and salaries of officers and servants of Committee.

10. (1) Subject to such rules as may be made by the Government in this behalf, a Committee may employ such officers and servants as may be necessary for the management of the market and may pay such officers and servants such salaries as it may think fit and shall have power to control and punish them. A Committee may also provide for the payment to its officers

and servants of such leave allowances, pensions, gratuities or compassionate allowances as it may think proper; and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(2) A Committee shall, in the case of any officer or servant of the Government which it employs, pay the Government such contribution towards pension and leave allowances of such officer or servant as may be payable under the rules or regulations in that behalf in force for the time being.

11. (1) Every contract entered into by a Committee shall be in writing and shall be signed on behalf of the Committee by the Chairman and two other members thereof. Execution and validity of contracts.

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

12. (1) All moneys received by a Committee shall be paid into a fund to be called the "Markets Committee Fund"; all expenditure incurred by the 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 or disposed of in such manner as may be prescribed in this behalf. Markets Committee Fund.

(2) Every Committee shall pay to the Government, out of its funds, the cost of any special or additional staff employed by the Government in connection with the Committee for giving effect to the provisions of this Act in the notified area concerned.

(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 than one Committee, apportion such cost among the Committees concerned in such manner as it thinks fit. The decision of the Government determining the amount payable by any Committee shall be final.

13. Subject to the provisions of section 12, the Markets Committee Fund shall be expended for the following purposes only:— Purposes for which the market fund may be expended.

- (i) the acquisition of a site 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, pensions, leave allowances, gratuities, compassionate allowances and contributions towards leave allowances, pensions or provident fund of officers and servants employed by the Committee;
- (vi) expenses of and incidental to elections and meetings;
- (vii) the payment of interest on loans that may be raised for the purposes of the market and the provision of a sinking fund in respect of such loans;

- (viii) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the notified agricultural produce ;
- (ix) propaganda in favour of agricultural improvement and thrift ;
- (x) the construction, repair and maintenance of means of communication which are useful for the purposes of development of a market or for the convenience and safety of the persons using it ;
- (xi) providing comforts and facilities, such as shelter, shade, parking accommodation and water, for the persons, draught cattle and pack animals coming to a market, and similar other purposes ; and
- (xii) with the previous sanction of the Government, any other purpose which is calculated to promote the general interest of the market.

No trade allowance permissible except as prescribed by rules or bye-laws.

14. 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 area by any person in any transaction in respect of any notified agricultural produce, and no civil Court shall, in any suit or proceeding arising out of any such transaction, have regard to any trade allowance not so prescribed.

Power to borrow.

15. (1) Every Committee may, with the previous sanction of the Government, raise the money required for carrying out the purposes for which it is established on the security of any property vested in and belonging to the Committee.

(2) A Committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing a market, obtain a loan from the Government.

(3) The conditions under which such money or loan shall be raised and the time within which the same shall be repayable shall be subject to the previous sanction of the Government.

Supersession of Committee.

16. (1) If, in the opinion of the Government, a Committee is not competent to perform, or persistently makes default in performing, the duties imposed on it by or under this Act, or exceeds or abuses its powers, the Government may, by notification, declare such Committee to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and may supersede it ; provided that before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Committee for showing cause against the proposal and shall consider the explanations and objections, if any, of the said Committee.

(2) Upon the publication of a notification under sub-section (1) superseding a Committee the following consequences shall ensue, namely :—

- (a) all members as well as the Chairman of the Committee shall, as from the date of such publication, be deemed to have vacated their offices ;

- (b) the Government may, at its discretion, by order, either constitute a new Committee under section 5, or make such arrangements for the carrying out of the functions of the Committee, as it may think fit ; and
- (c) all the assets vested in the Committee shall, subject to all its liabilities, vest in the Government.

(3) An order under clause (b) of sub-section (2) shall have the effect of transferring all the assets and liabilities of the Committee, as on the date of such order, to the new Committee constituted under section 5 or to the person or persons, if any, appointed for carrying out the functions of the Committee, as the case may be.

(4) If the Government does not pass an order under clause (b) of sub-section (2) it shall transfer all the assets of the Committee which remain after satisfaction of all its liabilities to the local authority within whose jurisdiction the notified area is situated, or if there is more than one such local authority, to each of such authorities in such proportion as the Government may determine.

(5) Any local authority to which any assets have been transferred under sub-section (4) shall employ such assets for an object of public utility in the notified area.

17. Whoever, in contravention of this Act, sets up, establishes or continues any place for the purpose of purchase or sale of agricultural produce, or violates the conditions under which he has been allowed to set up, establish or continue any such place for the purchase or sale of agricultural produce, shall, on conviction by a Magistrate, be punished with fine which may extend to five hundred rupees, and, in case of a continuing breach of the provisions of section 6, with fine which may extend to one hundred rupees for each day after the first during which the breach continues. Penalties.

18. (1) The Government may, for any notified area or areas, make rules consistent with this Act for carrying out all or any of the purposes thereof. Rules.

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

- (i) the maxima and minima under section 6 ;
- (ii) the election and nomination of members of a Committee, the manner of election, the preparation and revision of lists of voters from time to time, and the payment of all expenditure in connection with, or incidental to, such election ;
- (iii) the election of the Chairman of a Committee and the term of his office ;
- (iv) the filling of casual vacancies in the office of Chairman or member of a Committee ;
- (v) the powers to be exercised by a Committee ;
- (vi) the management of markets and the prescribing of fees by a Committee and, subject to the provisions of this Act, the collection and disposal of such fees ;

- (vii) the issue, by a Committee, of licences to brokers, weighmen, measurers, surveyors, warehousemen, and other persons using the markets, the form in which, and the conditions under which, such licences shall be issued, and the fees to be charged for such licences ;
- (viii) the place or places at which notified agricultural produce shall be weighed or measured, and the kind and description of the scales, weights and measures to be used within the notified area ;
- (ix) the periodical inspection, verification and correction of all scales, weights and measures in use within the notified area ;
- (x) the trade allowances which may be made or received by any person in any transaction in any notified agricultural produce in the notified area ;
- (xi) the provision of facilities for the settlement of any dispute between a buyer and a seller of notified agricultural produce or their agents, including disputes regarding the quality or weight of the produce, allowances for wrappings, dirt or impurities and deductions from any cause ;
- (xii) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of a notified agricultural produce ;
- (xiii) the provision of accommodation for the storage of any notified agricultural produce brought into markets and the charges to be levied therefor ;
- (xiv) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of a Committee, and the grant of sanction to such plans and estimates ;
- (xv) the form in which the accounts of a Committee shall be kept and the publication of such accounts ;
- (xvi) the preparation and submission for sanction of the annual budget and report and returns to be furnished by a Committee ;
- (xvii) the investment and disposal of any surplus funds of a Committee ;
- (xviii) the time, place and manner in which the money is to be paid to the seller ;
- (xix) the manner in which auctions shall be conducted and bids made and accepted in any market ; and
- (xx) generally for the guidance of Committees.

(3) Any such rules may provide that any contravention thereof or of any of the conditions of any licence issued thereunder shall, on conviction by a Magistrate, be punishable with fine which may extend to two hundred rupees.

(4) All rules shall be made after previous publication and shall, when made, be laid before both Chambers of the Union Parliament at least ten days before the end of a session.

(5) If both Chambers of the Union Parliament agree in the same or the following session in making any modification in any rule or agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or shall be rescinded, as the case may be.

19. Subject to any rules made by Government under the preceding section and with the previous sanction of the Deputy Commissioner of the district, a Committee may, in respect of a market under its management, make bye-laws for the regulation of the business and the conditions of trading therein and may provide that contravention thereof shall, on conviction by a Magistrate, be punishable with fine which may extend to fifty rupees. Bye-laws.

20. (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 District Magistrate or a Magistrate of the first class. Trial of offences.

(2) All fines recovered from an offender shall be paid to the Committee.

(3) Prosecutions under this Act may be instituted by any person duly authorized in writing by the Committee in this behalf.

21. All sums due from a Committee to the Government may be recovered in the same manner as arrears of land-revenue. Recovery of sums due.

THE CANAL ACT.

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