



The Mumbai Metropolitan Region Specified Commodities Markets
(Regulation of Location) Act, 1983

Act 42 of 1983

Keyword(s):

Authority, Chief Executive Officer, Commodity, Specified Commodity, Market, Metropolitan Commissioner, Register, Registered Trader, Sale, Specified Trade, Wholesale Trade

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**THE MUMBAI METROPOLITAN REGION SPECIFIED COMMODITIES
MARKETS (REGULATION OF LOCATION) ACT, 1983.**

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MAHARASHTRA ACT No. XLII OF 1983¹.

[THE MUMBAI METROPOLITAN REGION SPECIFIED COMMODITIES MARKETS
(REGULATION OF LOCATION) ACT, 1983].

[This Act received the assent of the President on 22nd November 1983; assent first published in the *Maharashtra Government Gazette* on the 2nd December 1983.]

Amended by Mah. 25 of 1996 (4-09-1996) †

An Act to regulate location of market areas and wholesale markets in respect of specified commodities in ²[the Mumbai Metropolitan Region] and to establish market committees to manage and control different markets established in different market areas for different commodities and to provide for matters connected therewith or supplemental or incidental thereto.

Mah. IV of 1975. WHEREAS ³[the Mumbai Metropolitan Region Development Authority] has been established under ⁴[Mumbai Metropolitan Region Development Authority Act, 1974] for the purpose of planning, co-ordinating and supervising the proper, orderly and rapid development of the areas in the Bombay Metropolitan Region;

AND WHEREAS, with the fast growth of population and commercial activities, the congestion and consequent traffic, accommodation and other problems in ⁵[Brihan Mumbai] and particularly in ⁶[South Mumbai] have been increasing enormously and therefore the State Government has accepted the policy to decongest the old island City and to shift as many commercial activities as possible to place outside ⁶[South Mumbai] for achieving the objectives for which the Metropolitan Authority is established;

Mah. XX of 1964. AND WHEREAS, with a view to relieving some of the congestion, steps are being taken under the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, to shift wholesale markets for some of the agricultural produce like onions and potatoes to ⁷[Navi Mumbai];

AND WHEREAS, necessity is increasingly felt to locate or relocate wholesale markets for some of the non-agricultural products also like textiles and iron and steel immediately and for other commodities as soon as possible;

AND WHEREAS, at present there is no provision of law available to enable the State Government, the Metropolitan Authority or any local authority to take any appropriate steps for establishing or shifting such markets to other localities;

AND WHEREAS, it is, therefore, necessary to enact a law immediately to regulate the location of market areas and wholesale markets in respect of commodities specified, from time to time, under such law and to establish market committees to manage and control different markets established for different commodities in

¹ For Statement of Objects and Reasons see *Maharashtra Government Gazette*, Extraordinary, Part V, dated the 4th July 1983, at pages 254-256.

² These words were substituted for the words "the Bombay Metropolitan Region" by Mah. 25 of 1996, Schedule, entry (4), clause 1 in column (2).

³ These words were substituted for the words "Bombay Metropolitan Region Development Authority", *ibid.*, clause 2(a)(i).

⁴ These words were substituted for the words and figures "the Bombay Metropolitan Region Development Authority Act, 1974", *ibid.*, clause 2(a)(ii).

⁵ These words were substituted for the words "Greater Bombay", *ibid.*, clause (b)(i).

⁶ These words were substituted for the words "South Bombay" *ibid* clause (b) (ii).

⁷ These words were substituted for the words "New Bombay", *ibid.*, clause (c).

† This Indicates date of commencement of Act.

different market areas and to provide for matters connected therewith or supplemental or incidental thereto; It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

Short title,
extent,
commence-
ment and
application.

1. (1) This Act may be called ¹[the Mumbai Metropolitan Region Specified Commodities Markets (Regulation of Location) Act, 1983.]

(2) It shall extend to all the areas for the time being comprised in ²[the Mumbai Metropolitan Region] as defined in ³[the Mumbai Metropolitan Region Development Authority Act, 1974].

Mah.
IV of
1975.

(3) It shall come into force in ⁴[Brihan Mumbai] at once. It shall come into force in any other area in the Bombay Metropolitan Region on such date as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different areas.

(4) (a) It applies in the first instance in ⁵[Brihan Mumbai] to the two commodities that is to say, (1) textiles, and (2) iron and steel, which are specified in the Schedule.

(b) The State Government may, either *suo motu* or on a request being made by the Metropolitan Authority, by notification in the *Official Gazette*, amend the Schedule under section 70 by inserting thereon any other commodity and may by the same notification or by like notification declare that this Act shall apply in any area to any commodity (whether already included or newly included in the Schedule) from such date as may be specified in such notification and different dates may be specified for different areas and for different commodities.

Definitions. 2. In this Act, unless the context otherwise requires,—

(1) “ Authority ” or “ Metropolitan Authority ” means ⁶[the Mumbai Metropolitan Region Development Authority] established under ⁷[the Mumbai Metropolitan Region Development Authority Act, 1974.];

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1975.

(2) “ by-laws ” means the by-laws made by a market committee under this Act;

(3) “ Chief Executive Officer ” means the Chief Executive Officer of the market committee concerned;

(4) “ committee ” or “ market committee ” means the committee constituted in any market area for any specified commodity;

¹ These words, brackets and figures were substituted for the words, brackets and figures, “ the Bombay Metropolitan Region Specified Commodities Markets (Regulation of Location) Act, 1983 ” by Mah. 25 of 1996, Schedule entry (4), clause 3 (a).

² These words were substituted for the words “ the Bombay Metropolitan Region ”, *ibid.*, clause 3(b)(i).

³ These words and figures were substituted for the words and figures “ the Bombay Metropolitan Region Development Authority Act, 1974 ”, *ibid.*, clause 3(b)(ii).

⁴ These words were substituted for the words “ Greater Bombay ”, *ibid.*, clause 3 (c).

⁵ These words were substituted for the words “ Greater Bombay ”, *ibid.*, clause 3(b).

⁶ These words were substituted for the words “ the Bombay Metropolitan Region Development Authority ”, *ibid.*, clause 4(a)(i).

⁷ These words were substituted for the words and figures “ the Bombay Metropolitan Region Development Authority Act, 1974 ”, *ibid.*, clause 4(a)(ii).

(5) "commodity" or "specified commodity" means any commodity for the time being specified in the Schedule;

(6) "market" means any principal market established in any market area for any specified commodity, and includes a subsidiary market;

(7) "market area" means any area declared under section 3 as market area for any specified commodity;

(8) "market yard" means any area declared under section 3 to be a market yard of any market, and includes a sub-market yard;

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1975.

(9) "Metropolitan Commissioner" means the Metropolitan Commissioner appointed under ¹[the Mumbai Metropolitan Region Development Authority Act, 1974];

(10) "prescribed" means prescribed by rules;

(11) "register" means the register prepared and maintained under section 5;

(12) "registered trader" means a person whose name is, for the time being, registered in the register for the respective trade;

(13) "regulations" means regulation made under section 10;

(14) "rules" means rules made by the State Government under this Act;

(15) "sale", with its grammatical variations and cognate expressions, means a sale of any commodity by one person to another for cash or for deferred payment or for any other valuable consideration, and includes a transfer of any commodity on the hire-purchase or other system of payment of price by instalments or a sale by an agent on behalf of another person for commission or other consideration;

(16) "Schedule" means the Schedule appended to this Act;

(17) "specified trade" means the wholesale trade in a specified commodity;

(18) "wholesale trade" means sale or purchase of any commodity for purposes other than direct consumption or use by the purchaser, and shall include holding of stocks or warehousing of the specified commodity at any place in the market area or in any market yard for such trade; and any such seller, buyer, holder of stock or warehouse-keeper shall be deemed to be a wholesale trader";

(19) words and expressions used in this Act, and not defined herein, shall have the meanings assigned to them in ²[the Mumbai Metropolitan Region Development Authority Act, 1974].

Mah.
IV of
1975.

CHAPTER II

DECLARATION OF MARKET AREA AND MARKET YARDS AND PROHIBITION OF CARRYING TRADE AT UNAUTHORISED PLACES

3. (1) On the recommendation of the Metropolitan Commissioner, the Metropolitan Authority may, by notification in the *Official Gazette*, declare any area in the Metropolitan Region described in the notification to be the market area in respect of any specified commodity and shall by the same or by a separate notification specify one or more market yards and sub-market yards for the market area, which may, if necessary, be located outside the market area.

Declaration of market area and market yards.

¹These words were substituted for the words and figures "the Bombay Metropolitan Region Development Authority Act, 1974", *ibid.*, clause 4(b).

²These words were substituted for the words "the Bombay Metropolitan Region Development Authority Act, 1974", by Mah. 25 of 1996, Schedule.

(2) Before making any recommendation for issue of any notification under sub-section (1), the Metropolitan Commissioner shall cause to be published in the *Official Gazette*, and in at least two newspapers having circulation in the proposed market area, a public notice of his intention to recommend to the Authority to issue such notification in respect of the area and the commodities described in such notice and inviting objections or suggestions in writing in respect of the said intention, within forty days from the date of publication of the public notice in the *Official Gazette*. Any objections or suggestions which may be received by the Metropolitan Commissioner in time shall be taken into consideration by him, before making his recommendation to the Authority.

(3) A plan showing the boundaries of the market area as declared under sub-section (1) and the boundaries of the market yards shall be made available for inspection at the office of the Metropolitan Commissioner and of the market committee and at such other places as may be notified by him in this behalf.

Constitution of first market committee. 4. (1) As soon as possible, after any area is declared to be a market area for any commodity under sub-section (1) of section 3, the State Government shall, by notification in the *Official Gazette*, constitute the first market committee therefor which shall consist of a Chairman, a Vice-Chairman and such number of other members nominated by the State Government as the State Government may consider necessary.

(2) Every member (including the Chairman and Vice-Chairman) shall hold office for such period as the State Government may fix in each case.

(3) All members (including the Chairman and Vice-Chairman) of the first market committee shall be deemed to vacate office, when the first meeting of the successor market committees duly constituted under sub-section (1) of section 9 is held, at which a quorum is present.

Registration of persons lawfully engaged in specified trade. 5. (1) As soon as possible, after any area is declared to be a market area for any commodity, the Chief Executive Officer shall issue a notice and publish it in at least four newspapers having circulation in the market area, inviting all persons lawfully engaged in the specified trade to apply in writing to him for registering themselves with the market committee. Such applications shall be invited within a reasonable period as may be specified in the notice which shall not be less than fifteen days and shall not be more than forty-five days, calling upon the applicants to adduce evidence that the applicants have been actively and lawfully engaged in the specified trade in the area immediately before the date of notification issued under sub-section (1) of section 3.

(2) Any person other than the person referred to in sub-section (1) intending to carry on a specified trade in any market yard shall also apply to the Chief Executive Officer for registering his name with the market committee.

(3) The application for such registration shall be made in such form and shall be accompanied by such documents as the Chief Executive Officer may, with the approval of the Metropolitan Commissioner, notify. It shall also be accompanied by such fee as may be laid down by the by-laws.

(4) The Chief Executive Officer shall consider all applications received by him. If he is satisfied, on making such further inquiry (if any) as he may deem fit, that any applicants were actively and lawfully engaged in or intending to carry on the specified trade, he shall include their names in the register to be maintained by him and inform the applicants accordingly. Every such registered person shall be eligible to get a licence as provided in section 33.

(5) If the Chief Executive Officer refuses to register the name of any person who has applied for the same, he shall communicate his decision in writing with reasons therefor to such person :

Provided that, no order under this sub-section shall be passed, unless the person concerned is given a reasonable opportunity to state his case.

(6) If the Chief Executive Officer, on application made to him or on his own motion, is satisfied, after such inquiry as he thinks fit, that any entry in the register is erroneous or defective in any particular or should be deleted on the ground that the person concerned has ceased to carry on the specified trade, he may, after giving a reasonable opportunity of being heard to the person concerned, amend or delete the entry.

(7) Any person aggrieved by any decision of the Chief Executive Officer in regard to the refusal or registration or amendment or deletion of an entry of his name in the register may make an appeal in writing to the Metropolitan Commissioner within one month of the receipt of the communication from the Chief Executive Officer in that regard.

(8) The decision of the Chief Executive Officer in regard to such registration, and where an appeal is made against it, the decision of the Metropolitan Commissioner, shall be final.

6. (1) It shall be incumbent on the market committee to provide registered trader with suitable alternative facilities at such places in the market yard of such nature and size and on such terms and conditions as the committee may determine, to enable him to carry on his specified trade in the market yard :

Provided that, if any such person fails to utilise the alternative facilities so provided, within sixty days from the date of the allotment order made by the committee in that behalf, the liability of the committee to provide such facilities shall cease.

(2) Any registered trader, being aggrieved by any allotment order of the committee, may appeal to the Metropolitan Commissioner within one month from the date of receipt of such order, and the order of the Metropolitan Commissioner on such appeal, shall be final :

Provided that, no order shall be passed by the Metropolitan Commissioner on such appeal against any registered trader, without giving him a reasonable opportunity of being heard.

7. (1) On and after the date specified by the Metropolitan Commissioner, by notification in the *Official Gazette* (hereinafter referred to as "the appointed date"), no person shall carry on the specified trade in any place in the market area, other than in the market yard or sub-market yard, and except under and in accordance with the conditions of a licence granted in that behalf under this Act

(2) Save as otherwise permitted by the Metropolitan Authority, no local authority having jurisdiction in the market area, shall, on and after the appointed date, notwithstanding anything contained in any law for the time being in force, establish, authorise or continue or allow to be established, authorised or continued any place in the market area as a market or a place to carry on the specified trade and any permission or licence already granted by it shall stand cancelled on the appointed date.

Upon such cancellation of any permission or licence, the holder of such permission or licence shall not be entitled to claim and receive any compensation, but shall be entitled to claim and receive such amount towards refund of the fees paid by him as is proportional to the unexpired period of such permission or licence.

CHAPTER III

CONSTITUTION OF MARKET COMMITTEES

Establishment of market committees. 8. (1) For every market area, there shall be a market committee. Every market committee shall be a body corporate by the name of "The (name of area and commodities) Market Committee" as may be decided by the Metropolitan Authority. Every committee shall have perpetual succession and common seal, and may by its corporate name sue and be sued and shall be competent to contract and to acquire, hold and dispose of property, both movable and immovable, and to do all other things necessary for the purposes of this Act.

(2) The market committee shall be deemed to be a local authority within the meaning of the term "local authority" as defined in the Bombay General Clauses Act, 1904. Bom.
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1904.

Constitution of market committee. 9. (1) A market committee shall consist of the following members, namely :—

(a) six representatives elected by the licensees holding valid licences for carrying on the specified trade in the market yard;

(b) two representatives of the manufacturers of the specified commodity or commodities for which the market or market yard is established, nominated by an association or any other organisation recognised by the Metropolitan Commissioner in this behalf :

Provided that, in the absence of any such recognised association or organisation, the representatives of the manufacturers shall be nominated by the Metropolitan Commissioner;

(c) if the market area includes any part of the area of any Municipal Corporation, or if the market yard is situated in any part of the area of any Municipal Corporation,—

(i) the Municipal Commissioner for such Municipal Corporation; and
(ii) one representative of the Municipal Corporation of that area, elected by the Councillors of that Corporation, from amongst themselves;

(d) if the market area includes any part of the area of any Municipal Council or if the market yard is situated in any part of the area of any Municipal Council,—

(i) the Chief Officer of such Municipal Council; and
(ii) one representative of the Municipal Council, elected by the Councillors, of that Council, from amongst themselves;

Provided that, where the market area includes any parts of the areas of more than one Municipal Council or where the market yard is situated in any parts of the areas of more than one Municipal Council, one representative of the Municipal Councils shall be nominated by the Metropolitan Commissioner;

(e) one representative of the labourer engaged in handling commodities in the market yard nominated by a trade union of such labourers as is recognised by the Commissioner of Labour, Maharashtra State :

Provided that, if there are more than one such trade union or in the absence of any recognised union, the representative shall be nominated by the Commissioner of Labour;

(f) one member of the Lok Sabha elected from a constituency of the Lok Sabha or any part of such constituency, situated within the limits of the market area, nominated by the State Government;

(g) two members of the State Legislature, not being members of the Metropolitan Authority, elected from a constituency of the State Legislature, or any part of such constituency, situated within the limits of the market area or residing in the market area, nominated by the State Government;

(h) the Industries Commissioner, Maharashtra State, or his nominee;

(i) one representative of Railways appointed by the Metropolitan Commissioner, in consultation with the General Managers of the Railways operating in the market area;

(j) one representative of the Ministry of Commerce, Government of India, nominated by that Government;

(k) one representative of the Transport Commissioner, Maharashtra State;

(l) one representative of the Metropolitan Authority, other than the Metropolitan Commissioner, nominated by the Authority;

(m) the Chief Executive Officer of the Market Committee.

(2) When a market committee is constituted for the first time, all the members thereof shall be nominated by the State Government, as provided by sub-section (1) of section 4.

(3) The members shall receive such allowances as may be determined by by-laws for meeting the personal expenditure in attending the meetings of the committee or standing committee or any sub-committee or body thereof or in performing any other functions as members :

Provided that the allowances payable, —

(i) to a member who is the member of Parliament shall not exceed the compensatory allowance as defined in the Parliament (Prevention of Disqualifications) Act, 1959 payable to him;

(ii) to a member who is the member of the Maharashtra State Legislature shall not exceed the compensatory allowances permissible to him under entry 11 of the Maharashtra Legislature Members (Removal of Disqualifications) Act.

(4) If any authority, committee, association, union or body fails to elect or nominate any members, the Metropolitan Commissioner shall give notice to them in such manner as he thinks fit, requiring them to elect or nominate a member or members within one month from the date of the notice; and on the failure again to elect or nominate a member or members within the aforesaid period, the Metropolitan Commissioner shall appoint on behalf to them or any of them, as the case may be, a person or persons who are qualified to be elected or nominated, as the case may be, under sub-section (1) as members.

10. (1) The Executive Committee of the Metropolitan Authority may make regulations generally to provide for or to regulate all matters relating to elections to be held under this Act. The power to make regulations shall be exercisable by the Executive Committee subject to the previous sanction of the State Government as hereinafter provided.

Regulations
for holding
elections
of members.

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(2) Without prejudice to the generality of the foregoing powers, the Executive Committee may make regulations with regard to all or any of the following matters, namely :—

- (a) the qualifications and disqualifications for voters and candidates for the election;
- (b) the preparation, publication and maintenance of list of voters;
- (c) the fixation of dates, time and place for various stages of election;
- (d) the appointment and duties of returning officers, presiding officers and other staff for election;
- (e) the nomination of candidates, form of nomination paper, objections to nominations, scrutiny of nominations and appeals against acceptance or rejection of nomination papers;
- (f) the deposits to be made by candidates;
- (g) the assignment of symbols to candidates;
- (h) the withdrawal of candidature;
- (i) the appointment of agents of candidates;
- (j) the form of ballot paper;
- (k) the procedure in contested and uncontested elections;
- (l) the manner of recording votes;
- (m) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes;
- (n) the custody and disposal of papers relating to elections;
- (o) the circumstances in which poll may be suspended or held afresh;
- (p) any other matter relating to elections under this Act.

(3) (a) the Executive Committee, whenever it desires to make regulations under this Act, shall by resolution at a special meeting, approved a draft of such regulations.

(b) As soon as possible after such resolution is passed, the Executive Committee shall display the draft of the regulations on the notice-board of the Office of the Chief Executive Officer and publish a notice in at least two newspapers circulating in the market area and also in such manner, as may in its opinion, be best calculated to inform the public and all persons likely to be affected by the regulations so displayed and inviting their objections and suggestions in respect of the proposed draft within a reasonable period to be specified in such notice.

(4) The Executive Committee shall consider the objections and suggestions, received, if any, and may by a resolution approve the final draft of the regulations.

(5) Within seven days of the passing of such resolution, the Chief Executive Officer shall submit the final draft of the regulations approved under sub-section (4) to the State Government and the State Government may sanction the regulations sent to it subject to such modifications, if any, as it may think necessary.

Publication of names of members. 11. The Metropolitan Commissioner shall, by notification in the *Official Gazette*, publish the names of all the members of the committee, elected or nominated or, as the case may be, appointed under sub-section (1) of section 9 and the committee shall be deemed to have been constituted from the date of such publication of names of members :

Provided that, if for any reason there is failure to elect or nominate a member on the part of any of the elections or other authority competent to elect or nominate, the committee shall be deemed to have been duly constituted if the names of two-thirds of the total number of members of the committee are published in the *Official Gazette*, and as regards the names of the remaining members elected, or nominated or appointed under the provisions of sub-section (1) of section 9 thereafter, the

Metropolitan Commissioner shall subsequently publish the names of the members in the *Official Gazette*, as and when a member is elected or nominated or, as the case may be, appointed.

12. No election of a member (including Chairman and Vice-Chairman) may be called in question, except by a petition presented to the City Civil Court or the Civil Judge (Senior Division) within whose jurisdiction the market yard is situated, by a candidate at the election or by any person entitled to vote at the election, within ten days after the publication of the names of members in the *Official Gazette*.

Disputes in respect of election or nomination of members including Chairman and Vice-Chairman.

13. (1) Except as otherwise provided in this Act, the members of a committee (not being a committee constituted for the first time) shall hold office for a period of four years from the date referred to in sub-section (2) :

Term of office of members of committee.

Provided that, the State Government may, by an order in the *Official Gazette*, extend the term of office of members of any committee for a period not exceeding one year.

(2) The term of office of members of a committee shall be deemed to commence on the date of the first meeting of the committee held in accordance with the provisions of sub-section (3).

(3) The first meeting of the committee shall be held on such date as may be fixed by the Metropolitan Commissioner, or by the Chief Executive Officer if authorised by him by a general or special order, in that behalf, which date shall be within thirty days from the date on which the names of members are published in the *Official Gazette* and the Committee is constituted in accordance with the provisions of section 11. Such meeting shall be presided over by the Chief Executive Officer.

(4) Notwithstanding anything contained in sub-section (3), such meeting shall not be held before the expiry of the term of office of members of an existing committee.

14. Any member of the committee may resign his office by tendering his resignation in writing to the Chief Executive Officer and such resignation shall be effective on its receipt by the Chief Executive Officer.

Resignation of members.

15. (1) The Metropolitan Commissioner may by himself or on the advise of the Chief Executive Officer, remove any member from office if he—

Removal of members.

(i) is or becomes subject to any of the disqualifications for becoming a member specified in the regulations made under section 10; or

(ii) is professionally interested or engaged in any case for or against the committee; or

(iii) absents himself from four successive meetings of the committee, except with the leave of absence granted by the committee; or

(iv) has, in the opinion of the Metropolitan Commissioner, been guilty of or neglect or misconduct in the discharge of his duties of any disgraceful conduct;

(v) has, in the opinion of the Metropolitan Commissioner, become incapable of performing his duties as a member :

Provided that, no member shall be removed from office unless he has been given a reasonable opportunity by the Metropolitan Commissioner to show cause why such action should not be taken against him.

(2) Any person aggrieved by the decision of the Metropolitan Commissioner may within a period of fifteen days from the date of receipt of the decision of the Metropolitan Commissioner by him, appeal to the State Government, and the order passed by the State Government on such appeal shall be final :

Provided that, no order shall be passed by the State Government in appeal against any member without giving him a reasonable opportunity of being heard.

Casual vacancies. 16. (1) A casual vacancy of a member occurring in the committee due to any reason whatsoever shall be filled by election or nomination or appointment, as the case may be, as provided in sub-section (1) of section 9, within forty-five days of the occurrence of the vacancy :

Provided that, if the vacancy occurs within four months preceding the date on which the term of office of the member expires, the vacancy shall not, unless the State Government otherwise directs, be filled.

(2) Where a person becomes or is elected or nominated or appointed as a member of the committee by virtue of holding any office or being a member of the Parliament, State Legislature, any local authority, committee, association or body, whether incorporated or not, he shall cease to be a member of the committee, as soon as he ceases to be holder of that office or ceases to be such member, as the case may be.

Members to vacate office on expiry of term and appointment of administrator. 17. (1) On the expiry of the term or extended term of office of the members of a committee as mentioned in sub-section (1) of section 13, all members of the committee shall vacate their office :

Provided that, if for any reasons whatsoever, a committee is not constituted in accordance with the provisions of section 11 before the date of expiry of the term or extended term of office of the members, then the powers and functions of the committee shall, until a committee is so constituted, vest in an administrator appointed by the Metropolitan Commissioner :

Provided further that, if the appointment of the administrator is likely to continue for a period of more than three months, the Metropolitan Commissioner shall obtain the approval of the State Government before continuing such appointment beyond three months.

(2) The administrator shall receive such monthly salary and allowances from the Market Fund and shall be subject to such conditions of service as the State Government may from time to time determine. When a salaried servant of the State Government is appointed as the administrator, such contribution to his pension, leave and other allowances as may be required by the conditions of his service under the Government to be made by him or on his behalf, shall be paid to the State Government from the Market Fund.

Election of Chairman and Vice-Chairman. 18. Every committee shall have a Chairman and a Vice-Chairman who shall be elected by the members of the committee in accordance with the regulations made under section 10.

Term of office of Chairman and Vice-Chairman. 19. The term of office of the Chairman and Vice-Chairman shall be two years from the date of the election or the remainder of their term of office as members, whichever is less, but a retiring Chairman or Vice-Chairman shall be eligible for re-election.

20. The committee may, subject to the provisions of by-laws made in that behalf, pay to the Chairman and the Vice-Chairman an honorarium of such amount as may be specified in the by-laws :

Honorarium
to Chairman
and Vice-
Chairman.

Provided that, no honorarium shall be payable to any Chairman or Vice-Chairman, if he is a member of the Parliament or of the State Legislature.

21. Subject to the provisions of sub-section (1) of section 4, the Chairman and the Vice-Chairman shall be elected in the first meeting of the committee held in accordance with the provision of sub-section (3) of section 13 and on the expiry of the term of the Chairman and the Vice-Chairman under section 19 or, as the case may be, where there is a vacancy of the Chairman or the Vice-Chairman, they shall be elected by the members in the meeting of the committee to be called by the Chief Executive Officer, within fifteen days from the date on which the term has so expired or, as the case may be, the vacancy has occurred. Such meeting shall be presided over by the Metropolitan Commissioner.

Election of
Chairman
and Vice-
Chairman.

22. A Chairman or a Vice-Chairman may resign his office by tendering his resignation in writing to the Chief Executive Officer and the resignation shall be effective on its receipt by the Chief Executive Officer.

Resignation
of Chairman
and Vice-
Chairman.

23. A Chairman or a Vice-Chairman shall cease to hold office, if the committee by a resolution passed by a majority of not less than two-thirds of the total number of members of the committee, so decides at a meeting.

Removal of
Chairman
and Vice-
Chairman.

24. If the office of the Chairman or the Vice-Chairman becomes vacant due to any reason, the vacancy shall be filled by election in accordance with the provisions of section 21:

Casual
vacancies in
office of
Chairman
and Vice-
Chairman.

Provided that, the person so elected shall hold office so long only as the member in whose place he is elected would have held office, if the vacancy had not occurred.

25. (1) On the election of a new Chairman or Vice-Chairman, the outgoing Chairman or Vice-Chairman, as the case may be, shall immediately hand over charge of their respective office and all papers and property of the committee to the new Chairman, or as the case may be, to the Vice-Chairman.

Chairman
and Vice-
Chairman to
hand over
charge of
their
respective
offices and
consequences
of refusal to
hand over
charge.

(2) If the outgoing Chairman or Vice-Chairman fails or refuses to hand over charge of his office and all papers and property of the committee as required under sub-section (1), the Metropolitan Commissioner or any officer empowered by him in writing in this behalf may, by order in writing, direct the Chairman or the Vice-Chairman, as the case may be, to forthwith hand over charge of his office and all papers and property of the committee, if any, in his possession as such Chairman or Vice-Chairman, to the new Chairman or Vice-Chairman.

(3) If the outgoing Chairman or Vice-Chairman, to whom a direction has been issued under sub-section (2), does not comply with such direction, the Metropolitan Commissioner or any officer authorised by him under sub-section (2), may apply to the Executive Magistrate within whose jurisdiction the committee is functioning for seizing and taking possession of papers, funds and property of the committee in the possession of such Chairman or Vice-Chairman.

(4) On receipt of an application under sub-section (3), the Magistrate may authorise any police officer, not below the rank of a Sub-Inspector of Police, to enter and search any place where the papers, funds and property are kept or likely to be kept and to seize them and hand over possession thereof to the new Chairman or Vice-Chairman, as the case may be.

Constitution of standing committee. 26. For every market committee, there shall be a standing committee, which shall consist of—

- (i) the Chairman of the committee, who shall also be the Chairman of the standing committee;
- (ii) the Chief Executive Officer; and
- (iii) three other members to be elected by the committee, from amongst its members.

Appointment of sub-committees. 27. A committee may, by a resolution supported by not less than half the total number of members of the committee, appoint one or more sub-committees, each consisting of such number of members of the committee as the committee may determine, so however that the number of members of a sub-committee shall not exceed five.

Powers, functions, etc. of the standing committee and sub-committee. 28. A committee may, by by-laws made for that purpose, delegate any of its powers to and entrust functions and determine the sphere of duties of the standing committee and the sub-committees :

Provided that, the committee shall not delegate to the standing committee or any sub-committee the powers exercisable by it—

- (a) under sub-section (2) of section 43; or
- (b) under section 44; or
- (c) under section 69.

Delegation of powers of committee to standing committee or sub-committee. 29. Notwithstanding anything contained in section 28, but except the proviso thereto, the committee may, by a resolution supported by not less than half the total number of members of the committee, delegate to the standing committee or a sub-committee such of its powers or duties as it may deem necessary for a period not exceeding six months.

Meetings and conduct of business at meetings. 30. The meetings, quorum and procedure of the committee, standing committee and sub-committee shall be regulated in accordance with the by-laws made for the purpose.

Members to act during vacancy, acts of committee etc., not to be invalidated by informalities. 31. (1) During any vacancy in a committee, standing committee or any sub-committee, the continuing members thereof may act as if no vacancy had occurred.

(2) No disqualification of, or defect in the election, nomination or appointment of any person acting as the Chairman or Vice-Chairman or a member of the committee, standing committee or sub-committee shall vitiate any act or proceeding of the committee, standing committee or sub-committee, if such act or proceeding is otherwise in accordance with the provisions of this Act; and such proceedings of the committee, standing committee or sub-committee shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings, provided the majority of such persons were entitled to act.

(3) No act or proceeding of a committee, standing committee or any of its sub-committees shall be deemed to be invalid on account of any irregularity in the service of notice upon any member provided that the proceedings thereof were not prejudicially affected by such irregularity.

(4) Until the contrary is proved, every meeting of a committee, standing committee or any sub-committee shall be deemed to have been duly convened and held.

CHAPTER IV

POWERS AND DUTIES OF MARKET COMMITTEE

32. In addition to the powers conferred and duties imposed upon it by or under this Act, a committee may— Powers and duties of committee.

(1) construct, maintain and manage the market yard including any buildings or structures;

(2) provide, maintain and manage any instruments or implements required in such yard;

(3) acquire, hold and dispose of any movable or immovable property;

(4) grant, renew, refuse, suspend or cancel licences to carry on a specified trade in the market yard;

(5) regulate the entry of persons and vehicular traffic into the market yard;

(6) collect or maintain, disseminate and supply information in respect of production, sale, storage, processing, prices and movement of commodities;

(7) provide for the licensees and other persons visiting the market, common services including transport, storage, grading, weighing, restaurants, petrol pumps, and temporary accommodation for persons visiting the market;

(8) enforce the provisions of this Act and rules, regulations, by-laws and conditions of the licences granted under this Act; and

(9) perform such other functions and duties as may, from time to time, be necessary or expedient for the purpose of maintaining or managing the market.

33. Subject to the rules, if any, made by the State Government, a committee may make by-laws for the grant, renewal, suspension or cancellation of licence for the use of any place in the market yard for carrying on the specified trade : Grant of licence to be regulated by by-laws

Provided that,—

(i) all orders, granting, renewing, refusing to grant or refusing to renew, cancelling or suspending any licence shall be in writing and no order refusing to grant or renew or cancelling or suspending a licence shall be made without giving the person concerned a reasonable opportunity of stating his case;

(ii) the reasons for any such refusal, cancellation or suspension of a licence shall be recorded in writing;

(iii) the committee shall not refuse to grant an initial licence to any registered person.

Power of
Committee
to levy fees.

34. It shall be competent to a committee to levy and collect fees in the manner and at the rates laid down in the by-laws made,—

(i) subject to the provisions of sub-section (2) of section 35, for stalls, offices, shops, godowns, etc. and open spaces in the market yard;

(ii) for any common services, amenities and facilities provided or arranged by the committee;

(iii) for the entry of persons, vehicles and goods into the market yard; and

(iv) for any other matter for which fee is to be or may be levied and collected by it.

Provision
regarding
transfer of
immovable
property of
committee.

35. (1) Notwithstanding anything contained in clause (3) of section 32, committee shall not, except with the previous permission of the State Government, transfer by sale, lease, exchange, mortgage, or otherwise, any land vesting in it or acquired by it and situated in the market yard.

(2) Subject to the provisions of sub-section (1), the committee may dispose of by sale, lease, exchange, mortgage, or otherwise any building, stall, shop, stand pen or things attached to the land or permanently fastened to anything attached to the land, subject to such conditions (including for charging of fees or rent or compensation for use and occupation of any building, stall, shop, stand, pen or, things attached to the land or permanently fastened to anything attached to the land where necessary) and such limitations as may be determined by by-laws made for the purpose.

Transfer of
immovable
property of
committee
by the
licensee.

36. (1) Subject to such conditions and limitations as the by-laws may provide any licensee holding immovable property or any interest in such property granted to him under sub-section (2) of section 35 may, with the previous sanction of the committee, transfer such property or interest by agreement to any person for carry-ing on a specified trade.

(2) The committee may, for reasons to be recorded in writing, refuse to sanction such transfer:

Provided that, no order of refusal of such sanction shall be passed, unless the person concerned is given an opportunity of being heard :

Provided further that, if the committee does not take any decision and commu-nicate the same to the applicant by letter under certificate of posting, within sixty days from the date of receipt of application for such transfer, the transfer shall be deemed to have been sanctioned.

(3) Any person aggrieved by the decision of the committee may, within one month of the receipt of the communication from the committee in that regard, appeal to the Metropolitan Commissioner, whose decision on such appeal shall be final.

Execution of
contracts.

37. (1) Every contract entered into by a committee shall be in writing and shall be signed on behalf of the committee by its Chairman, or in the absence of the Chairman by the Vice-Chairman, and two other members of the committee.

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

CHAPTER V

MARKET FUND, FINANCE, ACCOUNTS AND AUDIT ETC.

38. (1) All moneys received by a committee under this Act, including all sums realized by way of licence fees, fines, penalties paid to or levied under this Act (other than fines imposed by any Court), all proceeds of land or other property sold by a committee, all rents or compensation accruing from land or property, all loans raised by a committee, and all grants, loans or contributions made by the State Government to a committee shall form part of a fund to be called "the Market Fund".

Market Fund, its custody and investment.

(2) The amount to the credit of the Market Fund shall be kept or invested in such manner as may be prescribed.

39. (1) The Market Fund may be expanded for the following purposes, namely :—

Purposes for which Market Fund to be expanded.

- (a) acquisition of the site or sites for the market;
- (b) maintenance, development and improvement of the market;
- (c) construction of, and repair to, the buildings necessary for the purposes of such market and for the health and safety of persons using it;
- (d) providing common services, amenities and facilities for persons using the market;
- (e) pay, pension, leave and other allowances, gratuities, compensations for injuries resulting from accidents, compassionate allowance and contributions towards leave allowances, pensions and provident fund of the officers and servant employed by the committee;
- (f) payment of allowances and travelling expenses to the members of the committee, standing committee and sub-committee;
- (g) payment of an honorarium to the Chairman and Vice-Chairman;
- (h) payment of interest on loan, if any, raised by the committee and the provision for sinking fund for such loan;
- (i) collection and dissemination of information in respect of production, sale, purchase, storage, processing, prices and movement of commodities;
- (j) cost of audit, if any, incurred under section 42;
- (k) carrying out other functions laid down by or under this Act;
- (l) for any other purpose, with the previous approval of the State Government.

(2) It shall be lawful for the committee also to incur, with the previous approval of the State Government, expenditure on works or installations outside the market yard, provided such a proposal is in furtherance of the object of giving effect to any provisions of this Act and is approved by one half of the total number of members of the committee.

40. (1) Subject to the provisions of rules made under sub-section (2) of section 38, the committee may by by-laws made for the purpose, constitute special funds and credit to such funds such portions of the Market Fund as may be determined by such by-laws. Such special funds may include,—

Constitution of special funds.

- (i) a Depreciation Fund;
- (ii) a Provident Fund;
- (iii) a Pension Fund;
- (iv) an Employees Welfare Fund;
- (v) a General Reserve Fund.

(2) Every such fund shall form part of the Market Fund and shall be held and applied by the committee for the purposes for which such fund has been constituted.

Power to borrow. 41. A committee may, with the previous approval of the State Government, borrow, on the security of any immovable property vested in the committee or proposed to be acquired by it under this Act, any moneys for carrying out the purposes of this Act or for servicing any loan obtained by it, at such rates and on such conditions as the State Government may determine at the time the moneys are borrowed.

Accounts and audit. 42. (1) A committee shall keep accounts in such form and in such manner as it may, by by-laws made in this behalf, determine.

(2) The accounts of the committee shall be audited by Chief Auditor Local, Funds Accounts or by any other auditor appointed by the committee, with the previous approval of the State Government.

(3) The State Government may, if it thinks necessary, appoint a special auditor to audit the accounts of a committee.

(4) The auditor or the special auditor, as the case may be, shall submit his report to the committee and shall forward a copy thereof to the Metropolitan Commissioner and the State Government.

(5) The cost of the audit under sub-section (2) or (3), if any, shall be borne by the committee.

Budget. 43. (1) The Chief Executive Officer shall prepare, every year, in such form as the committee may by by-laws made for the purpose determine, an annual budget estimate in respect of the financial year next ensuing showing the estimated receipts and disbursement or income and expenditure of the committee, the estimated opening and closing balance of the Market Fund and special funds, if any, and shall submit it to the committee before the thirty-first day of January for approval.

(2) The committee shall adopt the budget estimate with such modifications as it may consider necessary by the first day of March.

(3) The Chief Executive Officer shall before the fifth day of March forward to the Metropolitan Commissioner for his approval copies of the budget prepared by him and the budget approved by the committee.

(4) If the committee for any reason fails to adopt the budget by the first day of March, the Chief Executive Officer shall before the fifth day of March, submit the budget prepared by him to the Metropolitan Commissioner for approval.

(5) The Metropolitan Commissioner shall approve the budget with such modifications as he may consider necessary before the 31st day of March.

(6) The Chief Executive Officer shall forward a copy of an approved budget to the State Government.

Reappropriation of budget provisions. 44. The committee may, subject to by-laws, if any, sanction reappropriations within the budget approved under section 43. A copy of statement of such reappropriation shall be submitted to the Metropolitan Commissioner and the State Government :

Provided that, no such reappropriation shall be done from the amounts earmarked for the repayment of any loan or the payment of the interest on any loan and towards contribution to any fund or funds constituted under section 40.

45. All property and Market Fund and all other assets belonging to, or vesting in, the committee shall be held and applied by it, subject to the provisions, and for the purposes of this Act. Application of property, Funds, etc.

46. (1) The committee shall cause to be prepared each year an annual report consisting of— Annual report.

(i) a statement of receipts and disbursement for the previous year;

(ii) a statement of operation of the Market Fund including the special funds, if any, constituted under section 40 during the previous year; and

(iii) a report of its activities during the previous year;

and submit the report to the State Government through the Metropolitan Commissioner before the thirtieth June.

(2) The annual report shall be laid before each House of the State Legislature, as far as possible before the expiry of the year next succeeding the year to which it relates.

CHAPTER VI

ACQUISITION OF LAND

47. (1) The acquisition of any land by the State Government for the purposes of this Act shall be deemed to be a public purpose. Application of the provisions of Chapter VIII of Mah. IV of 1975.

(2) The provisions of Chapter VIII of ¹[the Mumbai Metropolitan Region Development Authority Act, 1974,] shall *mutatis mutandis*, apply in relation to the acquisition of any land for the purposes of this Act, as they apply in relation to the acquisition of land by the State Government for the purposes of that Act.

CHAPTER VII

OFFICERS AND SERVANTS OF A MARKET COMMITTEE

48. (1) There shall be a Chief Executive Officer for every committee, who shall be appointed by the State Government. Appointment of Chief Executive Officer.

(2) Every Chief Executive Officer shall be,—

(i) an officer of the State Government on deputation to service under a committee;

(ii) paid such salary and allowances and other perquisites by the committee as the State Government may, from time to time, determine;

(iii) subject to such other terms and conditions of service as the State Government may determine; and

(iv) liable to be transferred by the State Government.

(3) On the appointment of an officer of the State Government as the Chief Executive Officer, such contribution to his pension, leave and other allowances, as may be required by the conditions of his service under the Government to be made by him or on his behalf, shall be paid to the State Government from the Market Fund.

(4) If at a special meeting of the committee not less than two-thirds of the total number of members (other than the Chief Executive Officer) who are for the time being entitled to sit and vote at any meeting of the committee, vote in favour of

¹ These words were substituted for the words "the Bombay Metropolitan Region Development Authority Act, 1974", by Mah. 25 of 1996, Schedule.

a resolution requiring the State Government to withdraw the Chief Executive Officer from office, the State Government shall withdraw such officer from service under the committee.

Powers and duties of the Chief Executive Officer. 49. (1) Subject to the superintendence, direction and control of the committee, all the executive functions of the committee shall be exercised by the Chief Executive Officer.

(2) Without prejudice to the provisions of sub-section (1), the Chief Executive Officer shall,—

(i) supervise the financial and executive administration of the committee and exercise such powers and perform such duties and functions as may be conferred or imposed upon him by this Act, or the rules, regulations or by-laws delegated to him by the committee under this Act;

(ii) supervise and control all officers and servants of the committee;

(iii) be responsible for collection of all sums due to the committee and payment of all sums payable by the committee;

(iv) ensure adequate security of all assets and property of the committee;

(v) be responsible for the proper application of the Market Fund and property according to the provisions of this Act and rules, regulations or by-laws made thereunder.

(3) The Chief Executive Officer may, with the sanction of the committee, delegate any of the powers or duties or functions conferred or imposed upon him by or under this Act, to any officer or servant of the committee.

Appointment of other officers and servants.

50. (1) The committee,—

(a) may, from time to time, create such other posts of officers and servants subordinate to the Chief Executive Officer, as may be necessary for the purposes of this Act;

(b) may, from time to time, appoint officers and servants to hold such posts; and

(c) shall pay such officers and servants such pay, allowances and other perquisites as it may, from time to time, determine:

Provided that, no post with a pay-scale, the minimum of which exceeds rupees one thousand per mensem, shall be created by the committee without the previous approval of the Metropolitan Commissioner.

(2) The powers and duties of such officers and servants shall be such as the committee, may, from time to time, by by-laws made for the purpose, determine.

Conditions of service of officers and servants to be regulated by by-laws.

51. The Committee may, by by-laws made for the purpose, regulate the recruitment and the conditions of service of its officers and servants and such by-laws may provide for the following matters, namely :—

(i) regulating the grant of leave and the payment of leave salary and allowance while absent on leave;

(ii) authorising the payment of travelling or conveyance allowance;

(iii) regulating the period of service;

(iv) determining the conditions under which the employees shall receive pension, gratuity or compassionate allowance and under which heirs or surviving relatives of employees shall receive such pension, gratuity or compassionate allowance;

(v) authorising payment of contributions out of the Market Fund to any pension or provident fund, which may be established for the benefit of the employees;

(vi) determining subsistence allowance in lieu of pay during the period of suspension of any employee pending enquiry;

(vii) generally prescribing any other conditions of service of the employees.

CHAPTER VIII

CONTROL

52. (1) The Metropolitan Commissioner, or any officer authorised by him by general or special order in this behalf, may,—

(a) inspect or cause to be inspected the accounts and the officers of a committee, the market yard and any other establishment controlled by the committee;

(b) hold enquiry into the affairs of a committee;

(c) call for any return, statement, accounts or report which, he may think fit to require such committee to furnish;

(d) call for and examine the proceedings of a committee;

(e) require a committee to take into consideration—

(i) any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such committee, and to make a written reply within a specified or reasonable time stating its reasons for doing such things; or

(ii) any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by such committee and to make a written reply to him within a specified or reasonable time stating its reasons for not doing such thing; and

(f) direct that anything which is about to be done or is being done should not be done, pending consideration of the reply and anything which should be done but is not being done should be done, within such time as he may direct.

(2) If the committee fails to comply with an order made or direction issued under sub-section (1), the Metropolitan Commissioner or the officer authorised by him may direct the Chief Executive Officer to comply with such order and the Chief Executive Officer shall immediately comply with such direction.

53. (1) Any officer, servant or member (including the Chairman and Vice-Chairman) of a committee shall furnish such information in his possession in regard to the affairs or proceedings of the committee, standing committee or any sub-committee as the Metropolitan Commissioner, or any officer authorised by him or, as the case may be, any officer authorised by the State Government, may require him so to do.

(2) An officer holding an inquiry into the affairs of the committee or examining the proceedings under section 52 shall have powers to summon and enforce the attendance of any officer, servant or member including the Chairman or Vice-Chairman of the committee and to compel him to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. The officer shall thereafter submit a report of the enquiry or examination so made by him to the State Government.

Inspection,
enquiry,
submission
of
statements,
etc.

Duty of
officer,
servant or
member to
furnish
information
to Metro-
politan
Commis-
sioner, etc.

Seizure of account books and other documents etc. 54. Where the Metropolitan Commissioner or any officer authorised by him has reason to believe that the books and records of a committee are likely to be tampered with or destroyed or the funds or property of a committee are likely to be misappropriated or misapplied, the Metropolitan Commissioner or the officer so authorised may seize and take possession of such books and records, funds and property of the committee, and the officers, servants or members (including the Chairman and Vice-Chairman) of the committee responsible for the custody of such books, records, funds and property shall give delivery thereof to the Metropolitan Commissioner or the officer so authorised.

Supersession of market committee. 55. (1) The State Government may, either *suo motu* or on the recommendation of the Authority, by an order published in the *Official Gazette*, supersede a committee if in the opinion of the State Governments,—

(i) it is not competent to perform duties imposed upon it by or under this Act or any other law for the time being in force; or

(ii) it persistently makes default in the performance of such duties, or in complying with the lawful directions (including those arising out of audit of accounts of the committee or inspection of the office and work thereof) and orders issued by the State Government, the Authority, the Metropolitan Commissioner or any other officer empowered by the State Government or by the Metropolitan Commissioner to issue such directions or orders to the committee; or

(iii) it exceeds or abuses its powers; or

(iv) the financial position and credit of the committee is seriously threatened; or

(v) it is necessary or expedient for any other reason which may be considered sufficient by the State Government :

Provided that, no such order shall be issued by the State Government without giving the committee an opportunity of rendering an explanation.

(2) Upon publication of an order under sub-section (1), the following consequences shall ensue, namely :—

(i) all members including the Chairman and the Vice-Chairman shall, from the date specified in the order, be deemed to have vacated their office;

(ii) the Chairman and the Vice-Chairman shall forthwith hand over the charge of their respective office and all papers and property of the committee to the Administrator appointed under section 56 and the provisions of section 25 shall, *mutatis mutandis*, apply in relation to the handing over of charge of office and papers and property of the committee under this section;

(iii) all property vested in the committee shall vest in the State Government.

Appointment of Administrator. 56. (1) When a committee is superseded, the State Government may, by the same order as issued under sub-section (1) of section 55 or by like order, appoint an Administrator in the first instance for a period not exceeding one year as the State Government may fix, but his term of office may be extended by such period or periods not exceeding three years in the aggregate as the State Government may think fit.

(2) The Administrator shall receive such monthly salary and allowances from the Market Fund and shall be subject to such conditions of service as the State Government may from time to time determine. When a salaried servant of the State Government is appointed as the Administrator such contribution to his pension, leave and other allowances as may be required by the conditions of his service under the State Government to be made by him or on his behalf, shall be paid to the State Government from the Market Fund.

57. (1) When an Administrator is appointed under section 56, during his term of office all the powers vesting in or exercisable by, and the duties and functions imposed on the committee, the standing committee, the Chairman, the Vice-Chairman and the sub-committees, if any, by or under this Act, or any other law for the time being in force, shall vest in and be exercised or, as the case may be, be performed by the Administrator. Powers of Administrator.

(2) The Chief Executive Officer shall be subordinate to the Administrator and the Administrator may delegate such powers and entrust such duties to the Chief Executive Officer as he may think necessary.

58. (1) Within one month before the expiry of the term or the extended term of the Administrator, elections shall be held to elect members or steps shall be taken to nominate members so as to re-establish and constitute the committee in accordance with the provisions of sections 9 and 11. Re-establishment of committee.

(2) Notwithstanding anything contained in section 56, the term of office of the Administrator shall be deemed to extend to, and expire with, the date immediately preceding the date of the first meeting of the committee so re-established and constituted.

CHAPTER IX

APPEALS AND REVISION

59. (1) Save as otherwise provided in section 5, section 6, sub-section (2) of section 15 and subject to the provisions of section 60, an appeal from every original order passed under this Act or the rules, regulations or by-laws made thereunder shall lie,—

(i) if the order is made by an officer other than the Chief Executive Officer to the Chief Executive Officer;

(ii) if the order (other than an order made in appeal) is made by the Chief Executive Officer, to the standing committee;

(iii) if the order (other than an order made in appeal) is made by the standing committee, to the committee;

(iv) if the order is made by a committee, to the Metropolitan Commissioner.

(2) In the case of an order passed in appeal by the committee, a second appeal shall lie to the Metropolitan Commissioner.

(3) No appeal or second appeal may be entertained unless it is filed within a period of thirty days from the date of receipt by the applicant of the order appealed against :

Provided that,—

(i) in computing the period of thirty days, the time required to obtain a copy of the decision or order appealed against shall be excluded;

(ii) the appellate authority may for good and sufficient reasons to be recorded in writing condone delay (not exceeding thirty days), if any, in filing an appeal.

(4) No order shall be passed in any appeal filed under sub-section (1), (2) or (3) unless the appellant is given an opportunity of stating his case; and every order passed in appeal, shall, subject to the provisions of sub-section (2), section 61 and section 62, be final and conclusive.

Non-appeal-
able orders.

60. No appeal and no application for revision shall lie against.—

(i) any notice issued under this Act or the rules, regulations or by-laws, including a notice issued upon a licensee to show cause why his licence should not be suspended or revoked; or

(ii) an order pertaining to the seizure or retention of account books, registers and other documents; or

(iii) an order sanctioning a prosecution under this Act.

Power of
State
Govern-
ment to call
for record
of any case.

61. (1) The State Government may, on its own motion, or on receipt of a report under section 53, or on an application made by an affected persons, call for the record of any case which has been decided under this Act or the rules, regulations and by-laws made thereunder by a committee or the Metropolitan Commissioner or any officer and in which no appeal has been filed or an appeal, if any, is filed and disposed of; if it appears to the State Government that such committee or the Metropolitan Commissioner or officer,—

(a) has exercised a jurisdiction not vested in it or him by law; or

(b) has failed to exercise a jurisdiction vested in it or him; or

(c) has acted in the exercise of its or his jurisdiction illegally or with material irregularity,

the State Government may make such order in the case as it thinks fit.

(2) No order shall be passed under this section which adversely affects any person, unless such person has been given a reasonable opportunity of rendering an explanation.

(3) No such record shall be called by the State Government after one year from the date of the passing of the order.

(4) The order passed by the State Government under this section shall be final and conclusive.

Finality of
order.

62. Save as otherwise expressly provided by or under this Act, every order made by any authority under this Act shall be final and conclusive and shall not be called in question in any Court by a suit, application or otherwise.

Bar of
jurisdiction.

63. No Civil Court shall have jurisdiction to entertain, to decide or to deal with any question (in any suit, appeal, application or other proceeding) which is by or under this Act to be decided or dealt with by the State Government, or a committee, or any officer under this Act, and in respect of which the decision or order of the State Government, Committee or officer has been made final and conclusive; and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Offences
and
penalties.

64. (1) Whoever,—

(a) contravenes any provisions of clause (1) of section 7, or

(b) except for reasons beyond his control contravenes the provisions of sub-section (1) of section 25, or

(c) voluntarily obstructs the Metropolitan Commissioner or any officer authorised by him in carrying out an inspection under clause (a) or holding an enquiry under clause (d) of section 52, or

(d) knowingly fails to comply with any requisition made or wilfully furnishes false return, statement, account, return or proceedings, under clause (c) or (d) of section 52, or

(e) wilfully neglects or refuses to furnish any information or wilfully furnishes false information under section 53, or

(f) voluntarily obstructs the Metropolitan Commissioner or any officer authorised by him seizing or taking possession of any books, records, funds and property of the committee or intentionally fails to give delivery thereof to such person under section 54, or

(g) aids or abets any person in the commission of any act specified in clauses

(a) to (f)—

shall, on conviction, be punished —

(i) when the offence is under clause (a) or (b), with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees or with both;

(ii) when the offence is under clause (c), (d), (e) or (f), with simple imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both ;

(iii) when the offence is under clause (g), with the same punishment as is provided for the offence aided or abetted;

(iv) when the offence under clause (a) is a continuing one, after first conviction, with a further daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(2) If it appears to the Magistrate taking cognizance of an offence under clause (a) of sub-section (1), on taking such evidence as he may deem necessary, that the accused person is carrying on any specified trade in a market area in contravention of any provisions of sub-section (1) of section 7, he may order, —

(i) that the stock of the commodity in respect of which such specified trade is carried on be seized and kept in the custody of the committee; or

(ii) where it is not practicable to seize the stock and keep it in such custody that the accused person shall not remove, part with or otherwise deal with the stock, except with his previous permission, until the complaint is finally disposed of; and

(iii) that the accused person shall not carry on the specified trade in the market area in contravention of the provisions of sub-section (1) of section 7, until the complaint is finally disposed of.

(3) Where any such accused person has been convicted for contravention of the provisions of sub-section (1) of section 7, the stock of commodity in respect of which any order is made under sub-section (2) may be forfeited to the State Government; and in case where such person is acquitted or discharged the stock, if it is seized and kept in the custody of the committee, shall be returned to him.

65. (1) Where an offence under this Act has been committed by a Company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance, of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means a body corporate and includes a firm association of persons or body of individuals whether incorporated or not, and

(b) “Director”, in relation to a firm, means a partner in the firm and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

66. (1) No Court shall take cognizance of any offence punishable under this Act, except with the previous sanction of the Metropolitan Commissioner or the Chief Executive Officer or any person authorised by the Metropolitan Commissioner or the Chief Executive Officer, by general or special order, in this behalf.

(2) Notwithstanding anything contained in the Code of Criminal Procedure II of 1973, an offence under sub-section (1) of section 64 shall be cognizable and 1974. available.

(3) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence punishable under this Act.

67. (1) The Chief Executive Officer may, either before or after the institution of proceedings for any offence (other than an offence under clause (a) of sub-section (1) of section 64) punishable under this Act, with the approval of the Metropolitan Commissioner, accept from any person charged with such offence by way of composition of the offence a sum not less than the amount of the maximum fine and not more than double the amount of the maximum fine for the relevant offence mentioned in section 64, as he may determine.

(2) On payment of such sum as may be determined by the Chief Executive Officer under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence, and any proceedings, if already taken, shall stand abated, and the accused person, if in custody, shall be discharged.

CHAPTER X

RULES AND BY-LAWS

68. (1) The power to make rules under this Act shall be exercisable by the State Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to carry out the purposes of this Act; and such rules may include rules for levy of fees for any of the purposes of this Act and for refund of any such fees or any part thereof.

(3) All rules made under this Act shall be subject to the condition of previous publication.

(4) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session, immediately following, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such notification in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

69. (1) The power to make all by-laws under this Act shall be exercisable by the committee, subject to the previous sanction of the State Government as hereinafter provided. Power of committee to make by-laws.

(2) Without prejudice to any power to make by-laws contained elsewhere in the Act, any committee may make by-laws consistent with this Act and the rules made thereunder for the administration of its affairs and for the guidance of its standing committee, sub-committees, officers and servants.

(3) (a) The committee, whenever it desires to make by-laws under this Act, shall, by a resolution at a special meeting, approve a draft of such by-laws.

(b) As soon as possible after such resolution is passed, the committee shall display the draft of the by-laws on its notice-board and publish a notice in at least two newspapers circulating in the market area and also in such manner as may in its opinion, be best calculated to inform the public and all persons likely to be affected by the by-laws so displayed and inviting their objections and suggestions in respect of the proposed draft within a reasonable period to be specified in such notice.

(4) The committee shall consider the objections and suggestions received, if any, and may by a resolution approve the final draft of the by-laws.

(5) Within seven days of the passing of such resolution, the Chief Executive Officer shall submit the final draft of the by-laws approved under sub-section (4) to the Metropolitan Commissioner who shall send it with his recommendations to the State Government. The State Government may sanction the by-laws sent to it subject to such modifications, if any, as it may think necessary.

CHAPTER XI

MISCELLANEOUS

70. (1) The State Government may, either *suo motu* or on the recommendation of the Authority to that effect, by notification in the *Official Gazette*, add to, amend or cancel any entry in respect of any commodity or class of commodities in the Schedule. Power of State Government to amend Schedule.

(2) Before the publication of a notification under sub-section (1), the State Government, or as the case may be, the Authority shall cause to be published in the *Official Gazette* and also in at least two newspapers circulating in the Bombay Metropolitan Region, a notice announcing the intention of Government, or as the case may be, of the Authority to make a recommendation, to issue such notification, and inviting all persons, who entertain any objection to the said proposal to submit the same in writing with the reasons therefor, to Government, or as the case may be, the Authority within one month from the date of the publication of the notice in the *Official Gazette*, and the Authority shall forward to Government along with its recommendation as aforesaid, the objections, if any, received by it. Where the

Authority has published the proposal for inviting objections, it shall not be necessary for the State Government to publish the same proposal again for inviting the objections.

(3) No such notification as aforesaid shall be issued by the State Government, unless the objection, if any, so received or forwarded are in its opinion insufficient or invalid.

Chairman, Vice-Chairman, members, Chief Executive Officer and other officers and servants of a committee shall be deemed when acting or purporting to act in pursuance of the provisions of this Act or the rules, regulations or by-laws made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code. V of 1860.

Chairman, Vice-Chairman, members, Chief Executive Officer and other officers and servants of committee to be public servants.

Protection of action taken in good faith. 72. No suit, prosecution or other legal proceeding shall lie against any Chairman, Vice-Chairman, members, officers or servants of a committee, or against the State Government or the Authority, the Metropolitan Commissioner or any officer of the State Government or the Authority, for anything which is in good faith done or intended to be done under this Act, or any rule, regulation, or by-law made thereunder.

Recovery of sums due to Government or committee. 73. (1) Every sum due from a committee to the State Government shall be recoverable as an arrear of land revenue.

(2) Any sum due to a committee on account of any charge, costs, expenses, fees, rent, compensation or on any other account under the provisions of this Act or any rule, regulation or by-law made thereunder shall be recoverable from the person from whom such sum is due, in the same manner as an arrear of land revenue.

Power to delegate. 74. The State Government may, by notification in the *Official Gazette*, and subject to such conditions, if any, as it may think fit to impose, delegate all or any of the powers conferred upon it, by or under this Act, except the power to make rules, to the Metropolitan Commissioner or to any other officer or person; and delegate any of the powers, duties or functions of the Metropolitan Commissioner by or under this Act to any other officer of the Authority, specified in the notification.

Non-appliability of Bom. LVII of 1947. 75. *The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947— Bom. LVII 1947.

(a) shall not apply to any premises belonging to, or vesting in, the committee under or for the purposes of this Act;

(b) shall not apply as against the committee to any tenancy, licence or other like relationship created by the committee in respect of any such premises;

(c) but shall apply to any premises let or given on licence, to the committee.

Removal of difficulties. 76. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion requires, by order do anything which appears to it to be necessary for the purposes of removing the difficulty :

*Now see the Maharashtra Rent Control Act, 1999 (Mah. XVIII of 2000).

Provided that, no order shall be made under this section after the expiry of two years from the date of publication of this Act in the *Official Gazette*.

SCHEDULE

[Sections 2(16) and 70]

1. Textiles, that is to say, textile goods of all kinds, but excluding ready-made garments made from cloth.
2. Iron and Steel.