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PART-IV

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 05TH JULY, 2010

NO.PAS/Legis-B-11/2010- The Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Bill, 2010 having been passed by the Provincial Assembly of Sindh on 28th June, 2010 and assented to by the Governor of Sindh on 02nd July, 2010 is hereby published as an Act of the Legislature of Sindh.

THE SINDH WHOLESALE AGRICULTURAL PRODUCE MARKETS (DEVELOPMENT AND REGULATION) ACT, 2010

SINDH ACT NO: XIV OF 2010
AN
ACT

to provide for development and regulation of competitive and transparent wholesale agricultural produce markets in the Province of Sindh;

WHEREAS it is expedient to provide for enhanced competition and efficiency by enabling the establishment of private sector wholesale agricultural produce markets, promoting private sector investment to develop the agricultural marketing system, and allowing effective regulation for more competitive, transparent, modern and efficient wholesale agricultural produce markets in the Province of Sindh and for the matters connected therewith or ancillary thereto;

Preamble.

It is hereby enacted as follows :-

Short title,
commencement
and extent.

- 1 (1) This Act may be called the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

Definitions.

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

- a) "agricultural produce" includes all agricultural or horticultural produce, livestock or poultry, fish or seafood and products and by-products thereof, all of which are capable of human consumption, for sale or purchase in wholesale market within a boundary;
- b) "allottee" means a person who has been allotted a plot in a notified market by Government under the Sind Agricultural Produce Markets Act, 1939, which allotment is effective on the date of this Act;
- c) "dealer" means any person who, within a notified market or a private market, establishes or continues or allows to be continued any facility (including land and infrastructure) for the wholesale purchase or sale of any agricultural produce, or who engages in the wholesale purchase or sale of agricultural produce and shall include all persons who are allottees on the date of commencement of this Act;
- d) "general market" means an agriculture produce market dealing in a variety of agriculture produce items;
- e) "Government" means the Government of Sindh;
- f) "grower" means a person who grows agricultural produce either directly or through tenants, hired labour or otherwise, and includes a grower who also works as a dealer or a broker or who is a partner of a firm of dealers or brokers or is otherwise engaged in the business of the disposal or storage of agricultural produce;
- g) "market committee" means a committee notified and established under section 7 of the Agricultural Produce Markets Act 1939, which committee is in existence on the date of commencement of this Act;
- h) "market company" means a company incorporated under section 6 of this Act;

- i) "market standards" means standards prescribed from time to time in relation to the design, construction, implementation, operation and the maintenance of notified markets and private markets;
- j) "notified market" means a wholesale market established under the Agricultural Produce Markets Act, 1939;
- k) "private market" means a facility that includes a building or a block of buildings, an enclosure and such infrastructure and, or services as may be prescribed for the purposes of the wholesale purchase or sale of agricultural produce owned by private person, entity or entities, established and managed under this Act;
- l) "prescribed" means prescribed by rules made under this Act;
- m) "rules" mean the rules made under this Act;
- n) "specialized market" means an agriculture produce market largely dealing in a single variety of agriculture produce item or items; and
- o) "wholesale" means the sale or purchase of agricultural produce by a dealer or a grower to another dealer or a grower for the purpose of resale; but does not include the sale or purchase of agricultural produce to an end user or consumer.

CHAPTER-1 REGULATION OF PRIVATE MARKETS AND NOTIFIED MARKETS

3. (1) All private markets and notified markets shall be regulated in accordance with the provisions of this Act and the rules made hereunder from time to time.
- (2) Government shall take all steps to ensure that notified markets are transferred to market companies as may be prescribed.
- (3) Government shall not exercise any power under the Agricultural Produce Markets Act, 1939 for the establishment of any new notified market and the declaration of any notified area.
- (4) On commencement of this Act, neither any new market shall be established nor any area declared for such purpose under the provisions of Agricultural Produce Markets Act, 1939.

Regulation of
private markets
and public
wholesale
markets.

CHAPTER-2 MODE OF TRADING

- Mode of trading.**
- 4 (1) Notwithstanding the requirements of any other law for the time being in force (including any law imposing price control on the sale or purchase of agricultural produce), all agricultural produce intended to be purchased or sold on a wholesale basis at a notified market or a private market shall be purchased by or sold to dealers or other buyers by open auction in such manner as may be prescribed.
- (2) A grower may, directly sell his agricultural produce in such manner and on such terms and conditions as he deems fit and shall not be required to sell such agricultural produce through or at a notified market or a private market or any other market howsoever established.

CHAPTER-3 RE-ORGANIZATION OF NOTIFIED MARKETS

- Dissolution of Market Committees.**
- 5 (1) The market committees existing immediately before the commencement of this Act shall stand dissolved as may be prescribed.
- (2) Notwithstanding any provision of any law for the time being in force, any person shall be entitled, at any time after the date of commencement of this Act, to establish a private market for the wholesale, sale or purchase of agricultural produce in accordance with the provisions of this Act and in such manner as may be prescribed.
- Incorporation of notified markets.**
- 6 (1) Government shall, with respect to each notified market, not later than the date as may be prescribed for the dissolution of such notified market, take all steps and do all acts and things necessary to ensure that all the assets and all the liabilities of each such notified market are transferred, in their entirety to a market company incorporated as a private limited company under the Companies Ordinance, 1984, so that the assets and liabilities of each such notified market shall stand transferred from respective market committee to a separate market company. The transfer of each such notified market to its market company shall take place in such manner as may be prescribed; provided that Government shall ensure that, with respect to each notified market, a complete valuation of the assets and liabilities of such wholesale market are undertaken by a chartered accountant or a firm of chartered accountants established and registered under the Chartered Accountants Ordinance, 1961 and such number of shares are issued by each market company so as to ensure that the issued, subscribed and paid up capital of a market company as fully reflects the results of such complete valuation.

- (2) All issued shares in a market company shall be held by Government or any agency or instrumentality thereof or any person or entities nominated by Government and shall be issued at par, each share having nominal value of rupees ten only. Government, in its capacity as a shareholder of the market companies, shall always exercise its voting powers therein, in a manner that is consistent with the purpose of this Act.
- (3) Each market company shall be established as a single purpose market company to be established and maintained exclusively for operating and managing the notified market which has been transferred to such market company under sub-section (1).
- (4) No share of any market company shall be sold, transferred, assigned, pledged, encumbered or in any manner used as security for the procurement of any loan, liability or other advantage or right except in such manner as may be prescribed.
- (5) Government shall ensure that, with effect from the date of commencement of this Act, each allottee having rights that are enforceable against a market committee of a notified market under the Agricultural Produce Markets Act, 1939 shall have similar rights available to it under a new contract or obligation to be entered into between such allottee and the market company to which the assets and liabilities of such notified market have been transferred under this Act.
- (6) No market company shall sell, transfer, assign, pledge, encumber or otherwise use as security, any of its fixed

assets except with the approval of a resolution passed by the shareholders of such market company.

- 7 (1) Each market company shall, at all times, have a Board of seven Directors of which three shall be Agriculturists, three shall be nominated by the allottees of notified market of which the market company is the successor and one Director shall be nominated by Government.

Board of
Directors for
notified markets.

- (2) Out of three directors representing agriculturists, one each shall be nominated by the Sindh Chamber of Agriculture, Sindh Abadgaar Board and Government respectively.
- (3) Each of the Directors nominated by the allottees under sub-section (1) shall have not less than seven years experience in the wholesale marketing of agricultural produce and such other qualifications as may be prescribed.

(4) Each market company shall have a full time Chief Executive and a Chief Financial Officer, to be appointed by the Board of Directors of the market company through a transparent and competitive recruitment process, from the date of incorporation of the market company. The terms and conditions of employment of the Chief Executive and the Chief Financial Officer shall be as mutually agreed between the market company and such person.

(5) The Chief Executive appointed by the Board shall have atleast seven years marketing experience, preferably in the agricultural produce sector.

(6) The Chief Financial Officer appointed by the Board of Directors of the market company shall be a chartered accountant registered under the Chartered Accountants Ordinance, 1961 and shall have atleast seven years experience of relevant field.

(7) Each market company shall be exclusively responsible for the management, administration and development of the relevant notified market transferred to it and shall undertake the same in accordance with the market standards as may be prescribed.

Chairman of the Board of Directors

8. The Chairman of the Board of Directors of the market company shall be elected by the Directors from amongst the Directors.

Functions and powers of the Board of Directors:

9. The Memorandum and Articles of Association of a market company shall specify the functions and powers of the respective market company and Board of Directors of the company and Chief Executives so as to ensure that the Board of Directors of the company has complete autonomy to the extent permitted by law, to manage the business and affairs of the market company.

Appointment of Officers and staff.

10. (1) Each market company shall have a Secretary who shall exercise such powers as may be prescribed. The Secretary shall have such qualifications and experience as may be prescribed and shall be appointed by the Board of Directors of the market company on such terms and conditions as may be mutually agreed between such market company and such person.

(2) Each market company shall also have ministerial staff for management of affairs of market, in accordance with the procedure, as may be prescribed.

11. (1) All the employees of the Market Committees including the employees of Market Committees Pool Fund shall be transferred by Government for service under the successor market company, on such terms and conditions as may be determined by Government, which shall not be less favourable than those admissible to them immediately before transfer to the market companies.
- (2) Pension, gratuity, commutation and other service benefits as the case may be admissible to such employees including the employees who retired or died while serving in the Market Committees together with the employees of Market Committees Pool Fund before the commencement of this Act shall be the responsibility of the successor Market Companies and settled in the manner as may be prescribed.
12. The Memorandum of Association and the Articles of Association of a market company shall contain such provisions as may be prescribed.
13. Each notified market shall be operated by its market company in such manner as shall ensure that such wholesale market is financially self-sustaining without recourse to lending, grants, or the injection of further equity or other assistance from the Government.
- Transfer of all the employees of market committees to Market Companies.
- Memorandum and articles of association of a market company.
- Financial sustainability.

CHAPTER-4

RIGHT TO ESTABLISH A PRIVATE MARKET

14. Any entity or person (with the exception of the Federal Government or Government or any body, entity or organization established or created or continued under the Sindh Local Government Ordinance, 2001 or any entity or person which is directly or indirectly owned or in any manner controlled by the Federal Government or Government or anybody, entity or organization established or created or continued under the Sindh Local Government Ordinance, 2001) may, in such manner as may be prescribed, establish one or more private market or markets for the wholesale purchase and sale of agricultural produce.
- Establishment of private market

CHAPTER 5 – REGISTRATION OF AGRICULTURAL PRODUCE MARKETS

15. (1) Each market company to which a notified market has been transferred under section 6 and each private market shall be registered with Government in such manner and within such time as may be prescribed. Government shall issue a certificate of registration, in such form and in such manner as may be prescribed, to a market company to which a notified market has been transferred under section 6 or to a private market not later than seven days
- Registration with the Government.

from the date of compliance by the notified market or the private market, as the case may be, with such requirements as may be prescribed.

- (2) All market companies and operators of private markets shall display, for public inspection, the certificate of registration issued under sub-section (1).

CHAPTER-6 DEVELOPMENT AND REGULATION

Power to make rules.

16. (1) Government may make rules consistent with this Act for carrying out the purposes of this Act being either rules of general application to all wholesale markets for agricultural produce in the Province of Sindh or with respect to any specific marketing company or private market.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for :-
- (i) infrastructure standards, equipments and requirements for general and specialized markets,
 - (ii) place or places at which agricultural produce shall be weighed, the description of scales, weights and measures,
 - (iii) reliable grading, standardization and processing equipments and standards,
 - (iv) inspection, verification, regulation, correction and confiscation of scales, weights and measures in use,
 - (v) transparent and reliable auctions and financial transactions,
 - (vi) public or consumer grievance redress,
 - (vii) transparency and disclosure standards, and
 - (viii) the market standards.
- (3) A draft version of all rules or any amendment thereto shall be notified in the official gazette for public comments allowing at least twenty days for such comments. A committee headed by the Secretary Agriculture Department, Government of Sindh shall consider public comments received in response to the publication of draft rules and Government shall, on the advice of such committee make such amendments into the draft rules and notify the same in the official gazette as soon as possible.

- (4) Government may, with or without prior notice, inspect a notified market that has been transferred to a market company or any market to ensure that the same are established and operated strictly in accordance with all applicable laws, rules and regulations.
- (5) Each market company or private market shall issue an annual report, setting out in reasonable details, the development and performance of the wholesale markets for agricultural produce.
- (6) Government shall, not later than 120 days from the date of commencement of this Act, establish or cause to be established on-line information system providing information on the wholesale supply, demand, and prices of agricultural produce bought or sold in the Province of Sindh, against payment of fee as may be prescribed.
- 17 All the outstanding dues of the Market Committees shall be recovered from the defaulters by Government as arrears of land revenue in accordance with the provisions of Agricultural Produce Markets Act, 1939. **Recovery of outstanding dues of market committees.**

CHAPTER 6 - OFFENCES AND PENALTIES

- 18 (1) No offence made punishable under this Act or any rule made thereunder shall be tried by a Court inferior to that of a Magistrate of the First Class. **Trial of offences.**
- (2) Prosecutions under this Act may be instituted by a person duly authorized by Government.
- 19 Whoever contravenes the provisions of this Act shall be punishable with a fine which may extend to one hundred thousand rupees, and, in the case of a continuing contravention, in addition to such fine as aforesaid, may extend to one thousand rupees for every day, during which the contravention is continued. **Penalties.**
- 20 Notwithstanding anything contained in the Sindh Privatization Commission Ordinance, 2001, the transfer of a notified market to a market company shall not be deemed to be a privatization for the purposes of the said Ordinance. **Non-application of Sindh Privatization Commission Ordinance, 2001.**

CHAPTER 7: GENERAL

21. The Agricultural Produce Markets Act, 1939 shall stand repealed on expiry of three years of the commencement of this Act; provided that the Government shall continue to exercise all the powers under the Agricultural Produce Markets Act, 1939 to ensure that the statutory functions are performed by the notified markets until the same are transferred to market companies within the stipulated period as may be prescribed. **Repeal.**
22. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force. **Act to override other laws.**
23. If any difficulty arises in giving effect to the provisions of this Act, Government may make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty. **Removal of difficulties.**
24. Government shall ensure that the notified markets are transferred to the market companies within the stipulated time as may be prescribed. **Transfer of market committees.**

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

HADI BUX BURJO
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH