

**AGRICULTURAL PRODUCE TRADE AND COMMERCE
(PROMOTION AND FACILITATION) BILL, 2020**

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CLAUSES

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**AGRICULTURAL PRODUCE TRADE AND COMMERCE
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A

BILL

to create an ecosystem that provides farmers freedom of choice relating to the sale of agricultural produce and facilitates remunerative prices to farmers through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-state and intra-state trade and commerce of agricultural produce outside the physical premises of markets or deemed markets notified under the various agricultural produce market legislations enacted by the States and Union Territories across the territory of India; to provide a facilitative framework for electronic trading; and to provide for purposes connected with the matters aforesaid.

Be it enacted by Parliament in the Seventy First Year of the Republic of India as follows:-

Chapter I
Preliminary

1. Short title, extent, and commencement

- (1) This Bill may be called the Agricultural Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, provided that different dates may be appointed for different provisions of this Act; and any reference in any such

provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Declaration as to expediency in public interest

It is hereby declared by the Parliament to be expedient in the public interest that the Union facilitates the intra-state and inter-state trade and commerce of agricultural produce across the country.

3. Definitions

In this Act, unless the context otherwise requires,--

- (1) “agricultural produce” includes agri foodstuffs including edible oilseeds and oils; cattle fodder including oilcakes and other concentrates; raw cotton whether ginned or unginned, cotton seeds and raw jute;

Explanation:

“Agri Foodstuffs” includes cereals like wheat, rice or other coarse grains, pulses, oilseeds, vegetables, fruits, nuts, spices, sugar etc which can be in its natural form or processed produce of agriculture or horticulture, which are intended for human consumption;

- (2) “electronic trading and transaction platform” means a platform set up to facilitate spot buying and selling for conduct of trade and commerce of agricultural produce, for the purposes of wholesale trade, retail, value addition, processing or for export, through a network of electronic devices and internet applications or by any means of communication and on which all activities relating to trade and commerce of agricultural produce may take place online through computer network/internet or any other such electronic device;
- (3) “farmer” means a person engaged in production of agricultural produce by self or by hired labour or otherwise, and includes any association of such farmers, by whatever name called, registered under any law for the time being in force;
- (4) “farmer producer organisation” means an association of farmers by whatever name called, registered under any law for the time being in force;
- (5) “inter-state trade” means the act of buying or selling of agricultural produce, wherein a trader of one State or Union Territory buys the agricultural produce from a trader or farmer of another State or Union Territory and such agricultural produce is transported to a State or Union Territory other than the State or Union Territory in which the trader purchased such agricultural produce or where such agricultural produce originated;

- (6) “intra-state trade” means the act of buying or selling of agricultural produce, wherein a trader of one State or Union Territory buys the agricultural produce from a trader or farmer of the same State or Union Territory in which the trader purchased such agricultural produce or where such agricultural produce originated;
- (7) “notification” means a notification published by Central Government and State Government as the case may be in the Official Gazette and the expression “notified” shall be construed accordingly;
- (8) “person” includes an individual, a partnership firm, a company, a limited liability partnership, a co-operative society, a society or any association or body of persons duly incorporated;
- (9) “prescribed” means prescribed by the rules and/or regulations made under this Act;
- (10) “State APMC Act” means, with respect to each State or Union Territory, any legislation by whatever name it is called which regulates markets for agricultural produce in that state;
- (11) “State Government” includes Government of the State(s) and the Government of the UT(s);
- (12) “Trade Area” means any area or location including places of production, collection, aggregation; factory premises, warehouses, silos, cold storages or any other structure, from where trade of agricultural produce may be undertaken in the territory of India, but excluding:
 - (a) the premises, enclosures and structures constituting principal market yards, sub market yards and market sub yards managed by the market committees formed under each State APMC Act in force in India; and
 - (b) the premises, enclosures and structures constituting private market yards, private market sub yards and private farmer-consumer market yards managed by persons holding licenses or any warehouses, silos, cold storages or other structures notified as markets or deemed markets under each State APMC Act in force in India.
- (13) “trader” means a person who buys agricultural produce, by way of inter-state trade or intra-state trade or a combination thereof, either for itself or on behalf of one or more persons for the purpose of wholesale trade, retail, end-use, value addition, processing, manufacturing, export, bulk consumption or for any other purpose.

Chapter II

Regulation of trade and commerce of agricultural produce

4. Freedom to conduct trade and commerce in a Trade Area

Any farmer or trader or electronic trading and transaction platform can engage in the inter-state or intra-state trade and commerce in any agriculture produce in a Trade Area subject to the provisions of this Act.

5. Trade and commerce of agricultural produce

- (1) Any trader may engage in the inter-state trade or intra-state trade (or a combination thereof) of agricultural produce, which are part of the scheduled agriculture produce specified in the State APMC Act of the concerned state, with a farmer or another trader in a Trade Area:

Provided no trader will trade in any agriculture produce unless such a trader has a permanent account number allotted under Income Tax Act, 1961;

Provided further that the Central Government may notify alternative documents, the possession of which automatically qualifies a person as a trader;

Provided also that farmer producer organisations or primary agricultural cooperative society will not require any document to qualify as a trader for purchasing any such agricultural produce in the Trade Area.

- (2) The Central Government may prescribe a system of registration for a trader and modalities of trade transaction and payment of agricultural produce which are part of the scheduled agriculture produce specified in the State APMC Act of the concerned state, in a Trade Area, if it is of the opinion that it is necessary and expedient in public interest to do so.
- (3) Every trader who will transact with farmer(s) shall make payment for the traded agricultural produce on the same day or in the maximum three days if procedurally so required.

6. Electronic trading and transaction platforms

- (1) Any person (other than individual), having a permanent account number allotted under Income Tax Act, 1961 or any Farmer Producer Organization or Primary Agricultural Cooperative Society, may establish and/or operate an electronic trading and transaction platform for facilitating inter-state trade and intra-state trade of agricultural produce which are part of the scheduled agriculture produce specified in the State APMC Act of the concerned State/UT in a Trade Area;

Provided that such person establishing and/or operating an electronic trading and transaction platform(s) shall declare and ensure implementation of guidelines for fair trade practices including mode of trading, fees, technical parameters including interoperability with other platforms, timely payment to farmers, dissemination of information also in local language of the place of operation of the platform and such other matters.

- (2) If the Central Government is of the opinion that it is necessary and expedient in public interest to do so, it may by notification prescribe a system of registration and code(s) of conduct for electronic trading and transaction platforms and modalities of trade transaction and payment; for facilitating fair inter-state trade and intra-state trade of agricultural produce which are part of the scheduled agriculture produce specified in the APMC Act of the concerned State/UT in a Trade Area.

7. No levy of market fee under State APMC Act in Trade Area

No Market fee or cess or levy, by whatever name it is specified, under any State APMC Act shall be levied on any farmer or trader or electronic trading and transaction platform for trade in agricultural produce in a Trade Area;

Provided that the State Government may levy appropriate service charge on the first transaction of agriculture produce which are part of the scheduled agriculture produce specified in the State APMC Act of the concerned state in a Trade Area, subject to the prior approval of the rate(s) of service charge and a seamless online collection procedure by the Central Government;

Provided further that the service charge so levied by the State Government shall not exceed 1% but limited to the market fee as imposed under the State APMC Act;

Provided also that such an amount collected shall be credited to an appropriate fund as notified by the State Government for its use to create trading infrastructure, undertake farmers welfare and other promotional activities for inter state and intra state trade;

Provided also that no such service charge shall be levied upto the limit of quantity as may be prescribed by the State Government.

8. Promotional activities by the State Government

The State Government shall nominate an officer not below the rank of Secretary / Additional Secretary of the State Government for facilitating the development of trading infrastructure, undertake farmers welfare and other promotional activities for inter state and intra state trade.

9. Price Information System

Central Government shall through any Central Government Organization develop a price information system for agriculture produce and a framework for dissemination of such information.

Explanation:

Central Government Organization includes any subordinate or attached office, Government owned or promoted company/society.

Chapter III
Dispute Resolution

10. Dispute Resolution Mechanism for Farmers

- (1) **Conciliation of Disputes** -In case of any dispute arising out of a transaction between the farmer and trader under this Act, the Sub-Divisional Magistrate/Officer shall refer the dispute to a Board of Conciliation appointed under this provision.
- (i) Every Board of Conciliation appointed by the Sub-Divisional Magistrate/Officer for facilitating a binding settlement to the dispute as referred to such Board under sub-section (1), shall consist of a chairperson and between two or four other members, as the Sub-Divisional Magistrate/Officer deems fit.
 - (ii) The chairperson shall be an officer serving under the supervision and control of the Sub-Divisional Magistrate/Officer and the other members shall be persons appointed in equal numbers to represent the contracting parties to the dispute. Any person appointed to represent a party shall be appointed on the recommendation of that party:
Provided that, if any party fails to make a recommendation as aforesaid within 7 days, the Sub-Divisional Magistrate/Officer shall appoint such persons as it thinks fit to represent that party.
 - (iii) Where a dispute has been referred to a Board of Conciliation under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of persuading the parties to come to a fair and amicable settlement of the dispute.
 - (iv) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the Sub-Divisional Magistrate/Officer together with a memorandum of the settlement signed by the parties to the dispute.
 - (v) If no such settlement is arrived at, the Board shall, as soon as practicable send to the Sub-Divisional Magistrate/Officer a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances and the reasons on account of which, in its opinion, a settlement could not be arrived at.
 - (vi) The Board shall submit its report under this provision within thirty days of the date on which the dispute was referred to it or within such shorter period as may be prescribed by the Sub-Divisional Magistrate/Officer.

- (2) If the parties to the transaction under sub-section (1) are unable to resolve the dispute in the manner set out under sub-section (1), the farmer may approach the concerned Sub-Divisional Magistrate/Officer, in-charge of Revenue and General Administration of the Sub-Division, by whatever name called, who shall be the “Sub-divisional Authority” for adjudication of any dispute under sub-section (1) against the trader.
- (3) The Sub-Divisional Authority on its own motion or on a petition or on the reference from any Government Agency, may take cognizance of any contravention of any provision of section 5, or of any rule, notification, instruction, direction, order or guideline issued thereunder.
- (4) The Sub-divisional Authority shall decide the dispute under sub-section (1) and contraventions under sub-section (3) in a summary manner within thirty days from the date of its filing, after giving the parties a reasonable opportunity of being heard, and may: (a) pass an order for the recovery of the amount under dispute; and/or(b) impose a penalty as stipulated in sub section (1) of section 12; and / or (c) pass an order for restricting the trader in dispute from undertaking any trade of agriculture produce, directly or indirectly, under this Act for any such duration as deemed fit.
- (5) Every order of the Sub-divisional Authority under this section shall have force of the decree of a Civil Court unless an appeal under sub-section (5) has been preferred, and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue.
- (6) Any party aggrieved by the order of the Sub-divisional Authority may prefer an appeal before the appellate authority within fifteen days of such order.
- (7) The Collector, which includes Additional Collector, of the district shall be the presiding officer of the Appellate Authority. The appeal so preferred shall be disposed of within thirty days.
- (8) Every order or judgment of the Appellant Authority under this section shall have force of the decree of a Civil Court and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue.
- (9) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the Appellate Authority shall be as prescribed by the Central Government.

11. Suspension or Cancellation of Right to Operate an Electronic trading and transaction platform

- (1) Agriculture Marketing Advisor, Directorate of Marketing & Inspection (DMI), Government of India on its own motion or on a petition or on the reference from any Government Agency, may take cognizance of any breach of the procedures, norms, and code(s) of conduct prescribed under sub-section (2) of section 6, or any breach of the guidelines for fair trade practices formulated under the first proviso of sub-section (1) of section 6, by the Electronic trading and transaction platform and, by an order within sixty days and for the reasons to be recorded, may: (a) pass

an order for the recovery of the amount payable to the farmers; and/or (b) impose a penalty as stipulated in sub section (2) of section 12; and/or (c) suspend for a period as deemed fit or cancel the right to operate an Electronic trading and transaction platform;

Provided that no order for recovery of amount, imposition of penalty or suspension or cancellation of the right to operate shall be passed without giving the Electronic trading and transaction platform (or the owner or operator thereof) a reasonable opportunity of being heard.

- (2) Every order of the Agriculture Marketing Advisor, Directorate of Marketing & Inspection, under this section shall have force of the decree of a Civil Court unless an appeal, under section 10, has been preferred, and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue

12. Appeal against cancellation of the Right to Operate

- (1) Any person aggrieved by an order of the authority under section 10 may, prefer an appeal to the Central Government within sixty days from the date of such order:

Provided that an appeal may be admitted after the expiry of the said period of sixty days, but not beyond a total period of ninety days if the appellant satisfies the appellate authority, that he had sufficient cause for not preferring the appeal within the said period.

- (2) Every appeal made under this section shall be made in such form and manner, and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed by the Central Government.
- (3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government;

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

- (4) An appeal filed before the appellate authority shall be heard and disposed of as expeditiously as possible and all endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its filing.

Chapter IV *Penalties*

13. Penalty for contravention of Act, rules and regulations

- (1) Any trader who contravenes any provision of section 5, or of any rule, regulation, notification, instruction, direction, order or guideline issued thereunder, shall be liable to pay a penalty not exceeding five lakh rupees, and where the contravention is a continuing one, further penalty not exceeding five

thousand rupees for every day after the first day during which the contravention continues.

- (2) If any person, who owns, controls or operates an electronic trading and transaction platform, contravenes any provision of section 6, or of any rule, regulation, notification, instruction, direction, order or guideline issued thereunder (including any procedures, norms, manner of registration and code(s) of conduct as may be prescribed under sub-section (2) of section 6, and any guidelines for fair trade practices formulated under the first proviso of sub-section (1) of section 6), shall be liable to pay a penalty not exceeding ten lakh rupees, and where the contravention is a continuing one, further penalty not exceeding ten thousand rupees for every day after the first day during which the contravention continues.
- (3) The penalty under the section shall be in addition to and not in derogation of any law for the time being in force.

Chapter V

Miscellaneous

14. Powers of the Central Government to issue instructions, directions, orders or guidelines

Without prejudice to the foregoing provisions of this Act, the Central Government may give such instructions, directions, orders or guidelines as it may deem necessary to any authority or officer subordinate to the Central Government, any State Government or any authority or officer subordinate to a State Government, an electronic trading and transaction platform or any person or persons owning or operating an electronic trading and transaction platform, or a trader or class of traders, for carrying out all or any of the provisions of the Act, rules or regulations made thereunder or for the purpose of uniform implementation of the Act.

15. Protection of Action Taken in Good Faith

No suit, prosecution or other legal proceeding shall lie against the Central Government, or the State Government, or any officer of the Central Government or the State Government or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations or orders made thereunder, or in respect of the publication by or under the authority of the Central Government or the State Government or such officer, of any report, paper or proceedings.

16. Power to remove difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.

Provided that no order shall be made under this section after the expiry of 3 years from the date commencement of this Act.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

17. Power of the Central Government to make rules

- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act, as required to be carried by the Central Government under this Act.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provision is to be or may be made by rules.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule should not be made, the rule shall thereafter 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 under that rule.

18. Bar of Jurisdiction of Civil Court.

No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by this Act or the Rules made thereunder.

19. Act to have overriding effect

The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any State APMC Act or any other law for time being in force or in any instrument having effect by virtue of any law for time being in force other than this Act.

STATEMENT OF OBJECTS AND REASONS

The Union Government has been engaging with the State Governments for about two decades with the objective of reforming marketing laws to increase competitiveness in agriculture supply chain, provide freedom to farmers to sell their produce outside state run market areas, attract modern capital into post-harvest activities, facilitate inter-state trade and cultivate a progressive regulatory framework for the development of better marketing and trade systems through the market framework under the State legislations. In addition to constant engagements, the Union Government has attempted to bring homogeneity in the laws governing trade and commerce of agricultural goods across the country by circulating the Model APMC Act 2003 and Model APLM Act 2017 and encouraging the State Governments for their adoption. However, the State Governments have not embraced the reforms in a uniform manner, and the lack of homogeneity in the laws governing trade and commerce of agricultural goods is not in the larger interest of the country's economy and prosperity. The absence of consistency and synchronicity in the regulatory framework governing the trade and commerce of agricultural produce has been obstructing a competitive pricing environment for the farmers and is becoming an impediment to the evolution of a modern trading system.

2. With growth in production and productivity in agriculture, a vital need has arisen for the farmers and traders to have greater transparency, efficiency, speed and flexibility in the trading of agricultural produce, especially from the perspective of enhancing competition and the ability of the farmers to realize remunerative prices.
3. To keep pace with the dynamically changing agri-economy, e-commerce and agri-exports and also to meet the rising expectations of farmers and consumers, the country needs an accessible and competitive trading system outside the physical space of the notified markets under State APMC Acts.
4. The objective of this Act is to provide a more competitive and hassle free eco-system where farmers and traders have the choice to sell their produce in an efficient, transparent and competitive environment so as to realise remunerative prices. This will facilitate a free trade environment for the sale and purchase of agricultural produce and will enable direct interface of farmers with the traders, processors, exporters, bulk buyers and consumers.
5. Such an eco-system will greatly augment the ease of doing business, where the farmers will have the freedom to sell their produce to any buyer at the place and time of their choice, to whomsoever and wherever they get better price.