

Bill No. 112 of 2020

THE FARMERS (EMPOWERMENT AND PROTECTION) AGREEMENT
ON PRICE ASSURANCE AND
FARM SERVICES BILL, 2020

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Bill No. 112 of 2020

**THE FARMERS (EMPOWERMENT AND PROTECTION)
AGREEMENT ON PRICE ASSURANCE AND
FARM SERVICES BILL, 2020**

A

BILL

to provide for a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020. Short title and commencement.
- (2) It shall be deemed to have come into force on the 5th June, 2020.

Definitions.

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

(a) "APMC yard" means the physical premises covering Agriculture Produce Market Committee Yard, by whatever name called, established for regulating markets and trade in farming produce under any State Act;

(b) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013; 5
18 of 2013.

(c) "electronic trading and transaction platform" means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farming produce through a network of electronic devices and internet applications;

(d) "farm services" includes supply of seed, feed, fodder, agro-chemicals, machinery and technology, advice, non-chemical agro-inputs and such other inputs for farming; 10

(e) "farmer" means an individual engaged in the production of farming produce by self or by hired labour or otherwise, and includes the Farmer Producer Organisation;

(f) "Farmer Producer Organisation" means an association or group of farmers, by whatever name called,— 15

(i) registered under any law for the time being in force; or

(ii) promoted under a scheme or programme sponsored by the Central Government or the State Government;

(g) "farming agreement" means a written agreement entered into between a farmer and a Sponsor, or a farmer, a Sponsor and any third party, prior to the production or rearing of any farming produce of a predetermined quality, in which the Sponsor agrees to purchase such farming produce from the farmer and to provide farm services. 20

Explanation.—For the purposes of this clause, the term "farming agreement" may include— 25

(i) "trade and commerce agreement", where the ownership of commodity remains with the farmer during production and he gets the price of produce on its delivery as per the agreed terms with the Sponsor;

(ii) "production agreement", where the Sponsor agrees to provide farm services, either fully or partially and to bear the risk of output, but agrees to make payment to the farmer for the services rendered by such farmer; and 30

(iii) such other agreements or a combination of agreements specified above;

(h) "farming produce" includes—

(i) foodstuffs, including edible oilseeds and oils, all kinds of cereals like wheat, rice or other coarse grains, pulses, vegetables, fruits, nuts, spices, sugarcane and products of poultry, piggery, goatery, fishery and dairy, intended for human consumption in its natural or processed form; 35

(ii) cattle fodder, including oilcakes and other concentrates;

(iii) raw cotton, whether ginned or unginned; 40

(iv) cotton seeds and raw jute;

(i) "firm" means a firm as defined in section 4 of the Indian Partnership Act, 1932; 9 of 1932.

(j) "force majeure" means any unforeseen external event, including flood, drought, bad weather, earthquake, epidemic outbreak of disease, insect-pests and such other events, which is unavoidable and beyond the control of parties entering into a farming agreement; 45

(k) "notification" means a notification published by the Central Government or the State Government, as the case may be, in the Official Gazette and the expression "notified" shall be construed accordingly;

(l) "person" includes—

- 5 (i) an individual;
- (ii) a partnership firm;
- (iii) a company;
- (iv) a limited liability partnership;
- (v) a co-operative society;
- 10 (vi) a society; or
- (vii) any association or body of persons duly incorporated or recognised as a group under any ongoing programmes of the Central Government or the State Government;

(m) "prescribed" means prescribed by rules made under this Act;

15 (n) "Registration Authority" means an authority notified as such by the State Government under section 12;

(o) "Sponsor" means a person who has entered into a farming agreement with the farmer to purchase a farming produce;

(p) "State" includes Union territory.

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CHAPTER II

FARMING AGREEMENT

3. (1) A farmer may enter into a written farming agreement in respect of any farming produce and such agreement may provide for—

Farming agreement and its period.

25 (a) the terms and conditions for supply of such produce, including the time of supply, quality, grade, standards, price and such other matters; and

(b) the terms related to supply of farm services:

Provided that the responsibility for compliance of any legal requirement for providing such farm services shall be with the Sponsor or the farm service provider, as the case may be.

30 (2) No farming agreement shall be entered into by a farmer under this section in derogation of any rights of a share cropper.

Explanation.—For the purposes of this sub-section, the term "share cropper" means a tiller or occupier of a farm land who formally or informally agrees to give fixed share of crop or to pay fixed amount to the land owner for growing or rearing of farming produce.

35 (3) The minimum period of the farming agreement shall be for one crop season or one production cycle of livestock, as the case may be, and the maximum period shall be five years:

40 Provided that where the production cycle of any farming produce is longer and may go beyond five years, in such case, the maximum period of farming agreement may be mutually decided by the farmer and the Sponsor and explicitly mentioned in the farming agreement.

(4) For the purposes of facilitating farmers to enter into written farming agreements, the Central Government may issue necessary guidelines alongwith model farming agreements, in such manner, as it deems fit.

Quality, grade and standards of farming produce.

4. (1) The parties entering into a farming agreement may identify and require as a condition for the performance of such agreement compliance with mutually acceptable quality, grade and standards of a farming produce.

(2) For the purposes of sub-section (1), the parties may adopt the quality, grade and standards— 5

(a) which are compatible with agronomic practices, agro-climate and such other factors; or

(b) formulated by any agency of the State Government or the Central Government, or any agency authorised by such Government for this purpose,

and explicitly mention such quality, grade and standards in the farming agreement. 10

(3) The quality, grade and standards for pesticide residue, food safety standards, good farming practices and labour and social development standards may also be adopted in the farming agreement.

(4) The parties entering into a farming agreement may require as a condition that such mutually acceptable quality, grade and standards shall be monitored and certified during the process of cultivation or rearing, or at the time of delivery, by third party qualified assayers to ensure impartiality and fairness. 15

Pricing of farming produce.

5. The price to be paid for the purchase of a farming produce may be determined and mentioned in the farming agreement itself, and in case, such price is subject to variation, then, such agreement shall explicitly provide for— 20

(a) a guaranteed price to be paid for such produce;

(b) a clear price reference for any additional amount over and above the guaranteed price, including bonus or premium, to ensure best value to the farmer and such price reference may be linked to the prevailing prices in specified APMC yard or electronic trading and transaction platform or any other suitable benchmark prices: 25

Provided that the method of determining such price or guaranteed price or additional amount shall be annexed to the farming agreement.

Sale or purchase of farming produce.

6. (1) Where, under a farming agreement, the delivery of any farming produce is to be—

(a) taken by the Sponsor at the farm gate, he shall take such delivery within the agreed time; 30

(b) effected by the farmer, it shall be the responsibility of the Sponsor to ensure that all preparations for the timely acceptance of such delivery have been made.

(2) The Sponsor may, before accepting the delivery of any farming produce, inspect the quality or any other feature of such produce as specified in the farming agreement, otherwise, he shall be deemed to have inspected the produce and shall have no right to retract from acceptance of such produce at the time of its delivery or thereafter. 35

(3) The Sponsor shall,—

(a) where the farming agreement relates to seed production, make payment of not less than two-third of agreed amount at the time of delivery and the remaining amount after due certification, but not later than thirty days of delivery; 40

(b) in other cases, make payment of agreed amount at the time of accepting the delivery of farming produce and issue a receipt slip with details of the sale proceeds.

(4) The State Government may prescribe the mode and manner in which payment shall be made to the farmer under sub-section (3). 45

7. (1) Where a farming agreement has been entered into in respect of any farming produce under this Act, such produce shall be exempt from the application of any State Act, by whatever name called, established for the purpose of regulation of sale and purchase of such farming produce.

Exemptions with respect to farming produce.

10 of 1955. 5 (2) Notwithstanding anything contained in the Essential Commodities Act, 1955 or in any control order issued thereunder or in any other law for the time being in force, any obligation related to stock limit shall not be applicable to such quantities of farming produce as are purchased under a farming agreement entered into in accordance with the provisions of this Act.

10 **8.** No farming agreement shall be entered into for the purpose of—

(a) any transfer, including sale, lease and mortgage of the land or premises of the farmer; or

15 (b) raising any permanent structure or making any modification on the land or premises of the farmer, unless the Sponsor agrees to remove such structure or to restore the land to its original condition, at his cost, on the conclusion of the agreement or expiry of the agreement period, as the case may be:

Sponsor prohibited from acquiring ownership rights or making permanent modifications on farmer's land or premises.

Provided that where such structure is not removed as agreed by the Sponsor, the ownership of such structure shall vest with the farmer after conclusion of the agreement or expiry of the agreement period, as the case may be.

20 **9.** A farming agreement may be linked with insurance or credit instrument under any scheme of the Central Government or the State Government or any financial service provider to ensure risk mitigation and flow of credit to farmer or Sponsor or both.

Linkage of farming agreement with insurance or credit.

25 **10.** Save as otherwise provided in this Act, an aggregator or farm service provider may become a party to the farming agreement and in such case, the role and services of such aggregator or farm service provider shall be explicitly mentioned in such farming agreement.

Other parties to farming agreement.

Explanation.—For the purposes of this section,—

(i) "aggregator" means any person, including a Farmer Producer Organisation, who acts as an intermediary between a farmer or a group of farmers and a Sponsor and provides aggregation related services to both farmers and Sponsor;

30 (ii) "farm service provider" means any person who provides farm services.

11. At any time after entering into a farming agreement, the parties to such agreement may, with mutual consent, alter or terminate such agreement for any reasonable cause.

Alteration or termination of farming agreement.

35 **12.** (1) A State Government may notify a Registration Authority to provide for electronic registry for that State that provides facilitative framework for registration of farming agreements.

Establishment of Registration Authority.

(2) The constitution, composition, powers and functions of the Registration Authority and the procedure for registration shall be such as may be prescribed by the State Government.

CHAPTER III

DISPUTE SETTLEMENT

40 **13.** (1) Every farming agreement shall explicitly provide for a conciliation process and formation of a conciliation board consisting of representatives of parties to the agreement:

Conciliation board for dispute settlement.

Provided that representation of parties in such conciliation board shall be fair and balanced.

(2) A dispute arising from any farming agreement shall be first referred to the conciliation board formed as per the provisions of the farming agreement and every endeavour shall be made by such board to bring about settlement of such dispute.

(3) Where, in respect of any dispute, a settlement is arrived during the course of conciliation proceeding, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute and such settlement shall be binding on the parties.

Mechanism for
dispute
resolution.

14. (1) Where, the farming agreement does not provide for conciliation process as required under sub-section (1) of section 13, or the parties to the farming agreement fail to settle their dispute under that section within a period of thirty days, then, any such party may approach the concerned Sub-Divisional Magistrate who shall be the Sub-Divisional Authority for deciding the disputes under farming agreements.

(2) On receipt of a dispute under sub-section (1), the Sub-Divisional Authority may, if—

(a) the farming agreement did not provide for conciliation process, constitute a conciliation board for bringing about settlement of such dispute; or

(b) the parties failed to settle their dispute through conciliation process, decide the dispute in a summary manner within thirty days from the date of receipt of such dispute, after giving the parties a reasonable opportunity of being heard and pass an order for recovery of the amount under dispute, with such penalty and interest, as it deems fit, subject to the following conditions, namely:—

(i) where the Sponsor fails to make payment of the amount due to the farmer, such penalty may extend to one and half times the amount due;

(ii) where the order is against the farmer for recovery of the amount due to the Sponsor on account of any advance payment or cost of inputs, as per terms of farming agreement, such amount shall not exceed the actual cost incurred by the Sponsor;

(iii) where the farming agreement in dispute is in contravention of the provisions of this Act, or default by the farmer is due to force majeure, then, no order for recovery of amount shall be passed against the farmer.

(3) Every order passed by the Sub-Divisional Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908, unless an appeal is preferred under sub-section (4).

(4) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal to the Appellate Authority, which shall be presided over by the Collector or Additional Collector nominated by the Collector, within thirty days from the date of such order.

(5) The Appellate Authority shall dispose of the appeal within thirty days.

(6) Every order passed by the Appellate Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908.

(7) The amount payable under any order passed by the Sub-Divisional Authority or the Appellate Authority, as the case may be, may be recovered as arrears of land revenue.

(8) The Sub-Divisional Authority or the Appellate Authority shall, while deciding disputes under this section, have all the powers of a civil court for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed by the Central Government.

(9) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and an appeal before the Appellate Authority shall be such as may be prescribed by the Central Government.

5 **15.** Notwithstanding anything contained in section 14, no action for recovery of any amount due in pursuance of an order passed under that section, shall be initiated against the agricultural land of the farmer. No action for recovery of dues against farmer's land.

CHAPTER IV

MISCELLANEOUS

10 **16.** The Central Government may, from time to time, give such directions, as it may consider necessary, to the State Governments for effective implementation of the provisions of this Act and the State Governments shall comply with such directions. Power of Central Government to give directions.

45 of 1860. **17.** All authorities, including Registration Authority, Sub-Divisional Authority and Appellate Authority, constituted or prescribed under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Authorities under Act to be public servants.

15 **18.** No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Registration Authority, the Sub-Divisional Authority, the Appellate Authority or any other person for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder. Protection of action taken in good faith.

20 **19.** No civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any dispute which a Sub-Divisional Authority or the Appellate Authority is empowered by or under this Act to decide 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 or any rules made thereunder. Bar of jurisdiction of civil court.

25 **20.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any State law for the time being in force or in any instrument having effect by virtue of any such law other than this Act: Act to have an overriding effect.

Provided that a farming agreement or such contract entered into under any State law for the time being in force, or any rules made thereunder, before the date of coming into force of this Act, shall continue to be valid for the period of such agreement or contract.

30 42 of 1956. **21.** Nothing contained in this Act shall be applicable to the stock exchanges and clearing corporations recognised under the Securities Contracts (Regulation) Act, 1956 and the transactions undertaken therein. Act not to apply to stock exchanges and clearing corporations.

22. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power of Central Government to make rules.

35 (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) other purposes for which the Sub-Divisional Authority or the Appellate Authority shall have the powers of civil court under sub-section (8) of section 14;

40 (b) the manner and procedure for filing petition or application before the Sub-Divisional Authority, and an appeal before the Appellate Authority, under sub-section (9) of section 14;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, by the Central Government.

45 (3) Every rule made by the Central Government under this Act 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 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. 5

Power of State Government to make rules.

23. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 10

(a) the mode and manner of payment to the farmer under sub-section (4) of section 6;

(b) the constitution, composition, powers and functions of the Registration Authority, and the procedure for registration under sub-section (2) of section 12; 15

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, by the State Government.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House. 20

Power to remove difficulties.

24. (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 it to be necessary for removing the difficulty.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. 25

Repeal and savings.

25. (1) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 is hereby repealed. Ord. 11 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 shall be deemed to have been done or taken under the corresponding provisions of this Act. 30 Ord. 11 of 2020.

STATEMENT OF OBJECTS AND REASONS

Indian Agriculture is characterised by fragmentation due to small holdings and has certain weaknesses such as dependence on weather, uncertainties in production and unpredictable market. This makes agriculture risky and inefficient in respect of both input and output management. These challenges needed to be addressed by way of realising higher productivity, cost effective production and efficient monetisation of the produce to increase the farmers' income. It was felt that promotion of agreements for farming produce may strengthen the process of monetisation whose primary objective is to de-risk agriculture at various stages, enable scaling of investment by industry for production and processing of high value agriculture produces, give fillip to exports and help farmers to enjoy the additional benefits of operational efficiency.

2. The COVID-19 pandemic and resultant lockdown also threw up challenges for agriculture and impacted the livelihood of farmers. As agriculture sector has immense potential to make significant contribution to the economic growth, there was a need to find long term solutions for farmers and for agriculture as a whole. Therefore, to achieve these objectives and to mitigate risks for farmers, enhance their income, put in place an effective and conducive policy regime for agreements and for holistic development of the agriculture sector, there was a need for immediate legislation.

3. As the Parliament was not in session and there was an immediate need for legislation in this regard, the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 was promulgated by the President of India on the 5th June, 2020 under clause (1) of article 123 of the Constitution.

4. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020 which seeks to replace the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020 (Ord. 11 of 2020) provides for—

(a) facilitating written farming agreement to be entered into in respect of a farming produce, except where such agreement derogates the rights of a share cropper;

(b) the conditions for performance of farming agreement, including compliance with mutually acceptable quality, grade and standards of farming produce;

(c) the pricing of farming produce;

(d) the manner of delivery of farming produce;

(e) exempting the farming produce under a farming agreement from the application of a State Act regulating the sale and purchase of such farming produce and also from the provisions of the Essential Commodities Act, 1955 (10 of 1955) and the control orders made thereunder;

(f) prohibiting the Sponsor from acquiring ownership rights or making permanent modification on farmers' land or premises;

(g) the Sponsor to ensure timely acceptance of delivery and payment for such farming produce;

(h) linkage of farming agreement with insurance or credit instrument;

(i) establishment of Registration Authority to provide for e-registry and for registration of farming agreements;

(j) conciliation and dispute settlement mechanism for settlement of disputes under the farming agreement.

5. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 26th August, 2020.

NARENDRA SINGH TOMAR.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the Central Government to make rules by notification in the Official Gazette, *inter alia*, in respect of matters relating to (i) other purposes for which the Sub-Divisional Authority or the Appellate Authority shall have the powers of civil court; (ii) the manner and procedure for filing petition or application before the Sub-Divisional Authority, and an appeal before the Appellate Authority; (iii) any other matter in respect of which provision is to be made by rules by the Central Government.

2. Clause 23 of the Bill empowers the State Government to make rules by notification in the Official Gazette, *inter alia*, in respect of matters relating to (i) the mode and manner of payment to the farmer; (ii) the constitution, composition, powers and functions of the Registration Authority, and the procedure for registration; (iii) any other matter in respect of which provision is to be made by rules by the State Government.

3. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner and for matters connected therewith or incidental thereto.

(Shri Narendra Singh Tomar, Minister of Agriculture and Farmers Welfare)