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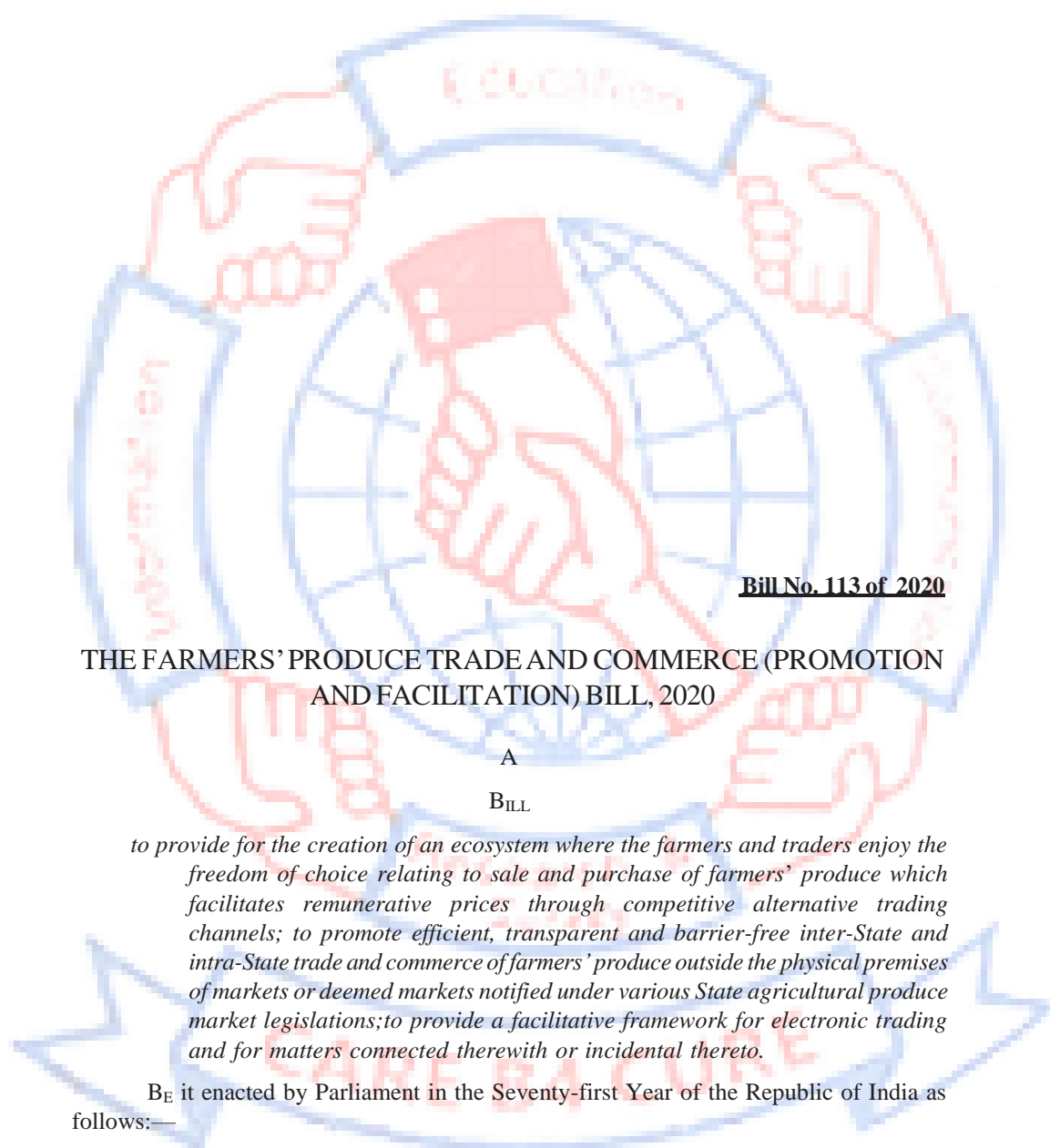
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Law Knowledge

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AS INTRODUCED IN LOK SABHA



Bill No. 113 of 2020

**THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION
AND FACILITATION) BILL, 2020**

A
BILL

to provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading 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

1. (1) This Act may be called the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.

Short title and commencement.

5 (2) It shall be deemed to have come into force on the 5th day of June, 2020.

Definitions.

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

(c) “farmers’ produce” means,—

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

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

(iii) raw cotton whether ginned or unginned, cotton seeds and raw jute;

(a) “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 farmers’ produce through a network of electronic devices and internet applications, where each such transaction results in physical delivery of farmers’ produce;

(b) “farmer” means an individual engaged in the production of farmers’ produce by self or by hired labour or otherwise, and includes the farmer producer organisation;

(d) “farmer producer organisation” means an association or group of farmers, by whatever name called,—

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

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

(e) “inter-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from the farmer or a trader of another State and such farmers’ produce is transported to a State other than the State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(f) “intra-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from a farmer or a trader of the same State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(g) “notification” means a notification published by the Central Government or the State Governments in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(h) “person” includes—

(a) an individual;

(b) a partnership firm;

(c) a company;

(d) a limited liability partnership;

(e) a co-operative society;

(f) a society; or

(g) 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;

(i) “prescribed” means prescribed by the rules made by the Central Government under this Act;

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(j) “scheduled farmers’ produce” means the agricultural produce specified under any State APMC Act for regulation;

(k) “State” includes the Union territory;

5 (l) “State APMC Act” means any State legislation or Union territory legislation in force in India, by whatever name called, which regulates markets for agricultural produce in that State;

(m) “trade area” means any area or location, place of production, collection and aggregation including—

10 (a) farm gates;

(b) factory premises;

(c) warehouses;

(d) silos;

(e) cold storages; or

15 (f) any other structures or places,

from where trade of farmers’ produce may be undertaken in the territory of India but does not include the premises, enclosures and structures constituting—

(i) physical boundaries of principal market yards, sub-market yards and market sub-yards managed and run by the market committees formed under each State APMC Act in force in India; and

20 (ii) private market yards, private market sub-yards, direct marketing collection centres, 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;

25 (n) “trader” means a person who buys farmers’ produce by way of inter-State trade or intra-State trade or a combination thereof, either for self or on behalf of one or more persons for the purpose of wholesale trade, retail, end-use, value addition, processing, manufacturing, export, consumption or for such other purpose.

CHAPTER II

30 PROMOTION AND FACILITATION OF TRADE AND COMMERCE OF FARMERS’ PRODUCE

3. Subject to the provisions of this Act, any farmer or trader or electronic trading and transaction platform shall have the freedom to carry on the inter-State or intra-State trade and commerce in farmers’ produce in a trade area.

Freedom to conduct trade and commerce in a trade area.

35 **4.** (1) Any trader may engage in the inter-State trade or intra-State trade of scheduled farmers’ produce with a farmer or another trader in a trade area:

Trade and commerce of scheduled farmers’ produce.

43 of 1961. Provided that no trader, except the farmer producer organisations or agricultural cooperative society, shall trade in any scheduled farmers’ produce unless such a trader has a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government.

40 (2) The Central Government may, if it is of the opinion that it is necessary and expedient in the public interest so to do, prescribe a system for electronic registration for a trader, modalities of trade transaction and mode of payment of the scheduled farmers’ produce in a trade area.

(3) Every trader who transacts with farmers shall make payment for the traded scheduled farmers' produce on the same day or within the maximum three working days if procedurally so required subject to the condition that the receipt of delivery mentioning the due payment amount shall be given to the farmer on the same day:

Provided that the Central Government may prescribe a different procedure of payment by farmer produce organisation or agriculture co-operative society, by whatever name called, linked with the receipt of payment from the buyers.

Electronic trading and transaction platform.

5. (1) Any person (other than individual), having a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government or any farmer producer organisation or agricultural cooperative society may establish and operate an electronic trading and transaction platform for facilitating inter-State or intra-State trade and commerce of scheduled farmers' produce in a trade area: 43 of 1961. 10

Provided that the person establishing and operating an electronic trading and transaction platform shall prepare and implement the guidelines for fair trade practices such as mode of trading, fees, technical parameters including inter-operability with other platforms, logistics arrangements, quality assessment, timely payment, dissemination of guidelines in local language of the place of operation of the platform and such other matters. 15

(2) If the Central Government is of the opinion that it is necessary and expedient in public interest so to do, it may, for electronic trading platforms, by rules—

(a) specify the procedure, norms, manner of registration; and 20

(b) specify the code of conduct, technical parameters including inter-operability with other platform and modalities of trade transaction including logistics arrangements and quality assessment of scheduled farmers' produce and mode of payment,

for facilitating fair inter-State and intra-State trade and commerce of scheduled farmers' produce in a trade area. 25

Market fee under State APMC Act, etc., in trade area.

6. No market fee or cess or levy, by whatever name called, under any State APMC Act or any other State law, shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers' produce in a trade area.

Price Information and Market Intelligence System.

7. (1) The Central Government may, through any Central Government Organisation, develop a Price Information and Market Intelligence System for farmers' produce and a framework for dissemination of information relating thereto. 30

(2) The Central Government may require any person owning and operating an electronic trading and transaction platform to provide information regarding such transactions as may be prescribed.

Explanation.—For the purposes of this section, the expression “Central Government Organisation” includes any sub-ordinate or attached office, Government owned or promoted company or society. 35

CHAPTER III

DISPUTE RESOLUTION

Dispute Resolution Mechanism for farmers.

8. (1) In case of any dispute arising out of a transaction between the farmer and a trader under section 4, the parties may seek a mutually acceptable solution through conciliation by filing an application to the Sub-Divisional Magistrate who shall refer such dispute to a Conciliation Board to be appointed by him for facilitating the binding settlement of the dispute. 40

(2) Every Board of Conciliation appointed by the Sub-Divisional Magistrate under sub-section (1), shall consist of a chairperson and such members not less than two and not more than four, as the Sub-Divisional Magistrate may deem fit. 45

(3) The chairperson shall be an officer serving under the supervision and control of the Sub-Divisional Magistrate and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

5 Provided that, if any party fails to make such recommendation within seven days, the Sub-Divisional Magistrate shall appoint such persons as he thinks fit to represent that party.

(4) Where, in respect of any dispute, a settlement is arrived at during the course of conciliation proceedings, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute which shall be binding upon the parties.

10 (5) If the parties to the transaction under sub-section (1) are unable to resolve the dispute within thirty days in the manner set out under this section, they may approach the Sub-Divisional Magistrate concerned who shall be the "Sub-Divisional Authority" for settlement of such dispute.

(6) The Sub-Divisional Authority on its own motion or on a petition or on the reference
15 from any Government agency take cognizance of any contravention of the provisions of section 4 or rules made thereunder and take action under sub-section (7).

(7) The Sub-Divisional Authority shall decide the dispute or contravention under this section in a summary manner within thirty days from the date of its filing and after giving the parties an opportunity of being heard, he may—

20 (a) pass an order for the recovery of the amount under dispute; or
 (b) impose a penalty as stipulated in sub-section (1) of section 11; or
 (c) pass an order for restraining the trader in dispute from undertaking any trade and commerce of scheduled farmers' produce, directly or indirectly under this Act for such period as it may deem fit.

25 (8) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal before the Appellate Authority (Collector or Additional Collector nominated by the Collector) within thirty days of such order who shall dispose of the appeal within thirty days from the date of filing of such appeal.

(9) Every order of the Sub-Divisional Authority or Appellant Authority under this
30 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.

(10) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the appellate authority shall be such as may be prescribed.

35 9. (1) The Agriculture Marketing Adviser, Directorate of Marketing and Inspection, Government of India or an officer of the State Government to whom such powers are delegated by the Central Government in consultation with the respective State Government may, on its own motion or on a petition or on the reference from any Government Agency, take cognizance of any breach of the procedures, norms, manner of registration and code of conduct or any
40 breach of the guidelines for fair trade practices by the electronic trading and transaction platform established under section 5 or contravenes the provisions of section 7 and, by an order within sixty days from the date of receipt and for the reasons to be recorded, he may—

Suspension or
cancellation
of right to
operate in
Electronic
Trading and
Transaction
Platform.

(a) pass an order for the recovery of the amount payable to the farmers and
traders;

45 (b) impose a penalty as stipulated in sub-section (2) of section 11; or

(c) suspend for such period as he deems fit or cancel the right to operate as 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 operator of such electronic trading and transaction platform an opportunity of being heard.

(2) Every order made under sub-section (1) shall have force of the decree of a Civil Court and shall be enforceable as such and the decretal amount shall be recovered as arrears of land revenue.

Appeal against cancellation of right to operate.

10. (1) Any person aggrieved by an order under section 9 may, prefer an appeal within sixty days from the date of such order, to an officer not below the rank of Joint Secretary to the Government of India to be nominated by the Central Government for this purpose:

Provided that an appeal may be admitted even 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. 15

(3) The procedure for disposing of an appeal shall be such as may be prescribed.

(4) An appeal filed under this section shall be heard and disposed of within a period of ninety days from the date of its filing:

Provided that before disposing of an appeal, the appellant shall be given an opportunity of being heard. 20

CHAPTER IV

PENALTIES

Penalty for contravention of Act and rules.

11. (1) Whoever contravenes the provisions of section 4 or the rules made thereunder shall be liable to pay a penalty which shall not be less than twenty-five thousand rupees but which may extend up to five lakh rupees, and where the contravention is a continuing one, further penalty not exceeding five thousand rupees for each day after the first day during which the contravention continues. 25

(2) If any person, who owns, controls or operates an electronic trading and transaction platform, contravenes the provisions of sections 5 and 7 or the rules made thereunder shall be liable to pay a penalty which shall not be less than fifty thousand rupees but which may extend up to ten lakh rupees, and where the contravention is a continuing one, further penalty not exceeding ten thousand rupees for each day after the first day during which the contravention continues. 30

CHAPTER V

MISCELLANEOUS

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

12. The Central Government may, for carrying out the provisions of this Act, give such instructions, directions, orders or issue 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 to any person or persons owning or operating an electronic trading and transaction platform, or a trader or class of traders. 40

Protection of action taken in good faith.

13. No suit, prosecution or other legal proceedings 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 under this Act or of any rules or orders made thereunder. 45

14. 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 the time being in force.

Act to have overriding effect.

15 15. 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 or under this Act or the rules made thereunder.

Bar of jurisdiction of civil court.

42 of 1956. 16. 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 made thereunder.

Act not to apply to certain transactions.

10 17. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

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

15 (a) the system of electronic registration for a trader and modalities of trade transaction of scheduled farmers' produce under sub-section (2) of section 4;

(b) the procedure of payment under proviso to sub-section (3) of section 4;

(c) the manner and procedure for filing a petition or an application before the Sub-divisional Authority and appeal before the appellate authority under sub-section (10) of section 8;

20 (d) the information regarding transactions under sub-section (2) of section 9;

(e) the form and manner and the fee payable for filing an appeal under sub-section (2) of section 10;

(f) the procedure for disposing of an appeal under sub-section (3) of section 10.

(g) any other matter which is to be or may be prescribed.

25 18. 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 30 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.

Laying of rules.

35 19. (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:

Power to remove difficulties.

40 Provided that no order shall be made under this section after the expiry of the period of three years from the date of 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.

Ord. 10 of 2020. 45 20. (1) The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Agriculture provides most of the world's food and fabrics. Keeping in view the importance of agriculture, the States have enacted the Agricultural Produce Market Committee (APMC) Acts to develop market-yard as market place and to provide regulation on marketing practices of notified agricultural produce. However, the regulatory provisions hindered the freedom of choice-based marketing and also the inflow of investment in development of alternative markets and marketing infrastructure.

2. The Government of India had circulated the Model APMC Act, 2003 and the Model Agricultural Produce and Livestock Marketing (Promotion and Facilitating) Act, 2017 to the States to reform their APMC Acts with a view to increase competitiveness in agriculture supply chain, provide freedom to farmers to sell their produce through alternative marketing channels to get the fair prices through the market framework under the State legislations. However, the States have not embraced the reforms in a uniform manner, and the lack of homogeneity in the laws has been obstructing a competitive pricing environment for the farmers and is becoming an impediment to the evolution of a modern trading system.

3. Agriculture not only meets the food security requirements of the country, but also provides raw material to the agro-industry which culminates into job creation and earning of foreign exchange through export. Directly linking the agro-industry with the farmers shortens the supply chain, reduces the marketing cost and post-harvest losses and most importantly enhances farmers' income.

4. 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 market-yards under the State APMC Acts.

5. In the light of above circumstances, it has become necessary to enact a Central Legislation 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 to realise remunerative prices. However, as Parliament was not in session and an urgent legislation was required to be made, the President promulgated the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 (Ord. 10 of 2020) under clause (1) of article 123 of the Constitution on the 5th day of June, 2020.

6. The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020 which seeks to replace the aforesaid Ordinance, *inter alia*, provides for the following, namely:—

- (a) freedom of choice to the farmer or trader to conduct trade and commerce in a trade area;
- (b) no trader shall be allowed to trade in a scheduled farmers' produce unless such a trader has a permanent account number or such other documents as may be notified by the Central Government;
- (c) to allow any person or any farmer producer organisation or primary agricultural cooperative society to establish and operate an electronic trading and transaction platform for facilitating inter-State and intra-State trade and commerce of a scheduled farmers' produce;
- (d) no market fee or cess shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers' produce in a trade area;

(e) a dispute resolution mechanism in case of disputes between the farmers and traders; and

(f) to enable the Central Government to develop a “Price Information and Market Intelligence System” for farmers’ produce and a framework for dissemination of such information;

7. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 7th September, 2020.

NARENDRA SINGH TOMAR.



FINANCIAL MEMORANDUM

The provisions of the proposed Legislation does not involve any expenditure either recurring or non-recurring from the Consolidated Fund of India.



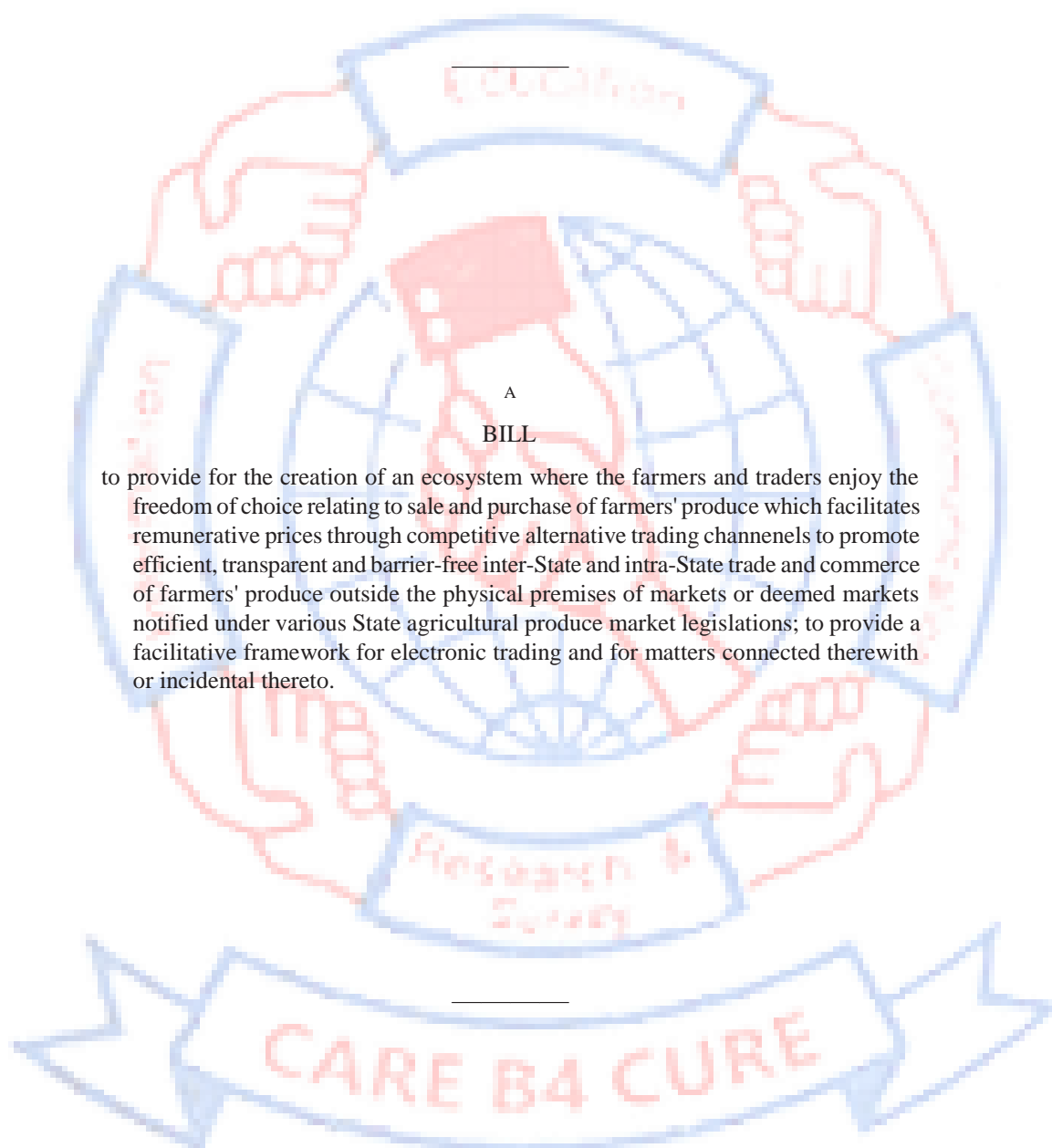
MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 17 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of said clause provides that such rules may provide for—(a) the system of electronic registration for a trader and modalities of trade transaction of scheduled farmers' produce under sub-section (2) of section 4; (b) the procedure of payment under proviso to sub-section (3) of section 4; (c) the manner and procedure for filing a petition or an application before the Sub-divisional Authority and appeal before the appellate authority under sub-section (10) of section 8; (d) the information regarding transactions under sub-section (2) of section 9; (e) the form and manner and the fee payable for filing an appeal under sub-section (2) of section 10; (f) the procedure for disposing of an appeal under sub-section (3) of section 10; and (g) any other matter which is to be or may be prescribed.

2. The matters in respect of which the 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 the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto.

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

MGIPMRND—373LS—(S3)—09.09.2020.