



**TAX N LEGAL
PARTNERS**
ADVOCATES & SOLICITORS

Legislation Analysis: Farmers (Empowerment & Protection) Agreement on Price Assurance and Farm Services Act, 2020

The Parliament recently tweaked the framework related to sale and purchase of farmers' produce by replacing the ordinances with the same titles as the following three laws ("Farm Laws"): Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 ("[FPTC Act](#)"), Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 ("[FAPAFS Act](#)"), and Essential Commodities (Amendment) Act, 2020 ("[EC Amendment](#)"). Following paragraphs summarize the changes brought into effect by the Farm Laws, but first let us understand few important terms.

Key Terms

- **Farm services:** These are inputs required for farming like seeds, agro-chemicals and machinery.
- **Sponsor:** This is someone who contracts with the farmer to buy farming produce.
- **State APMC Act:** These are State or Union Territory laws which regulate markets for agricultural produce.
- **Trade area:** A place of production, collection and aggregation from where farmers' produce may be traded. Trade areas do not include 1. market yards ("**mandis**") managed and run by the market committees formed under State APMC Acts and; 2. private licensed *mandis* or other structures deemed markets under State APMC Acts.
- **Trader:** This is someone who purchases farmers' produce for purposes like wholesale trade, retail, end-use, processing, manufacturing, export, and more. "Trader" is a wider term and it seems like it also includes a "sponsor".

Changes brought by FPTC Act

- **Freedom to trade:** Section 3 allows farmers, traders and electronic trading and transaction platforms (“**Electronic Platforms**”) to trade in farmers’ produce within and without a State. Further, section 4 allows traders to also trade in Scheduled farmers’ produce, which is the agricultural produce regulated under State APMC Acts. Lastly, section 6 prohibits levying of any kind of market fee under any State APMC Act.
- **Electronic Platforms:** Section 5 of the FPTC Act allows establishment of an Electronic Platform on which farmers’ produce can be bought and sold. Companies and other juristic persons like associations and co-operative societies are eligible to establish an Electronic Platform. Although mandatory, it is left upon Electronic Platforms to prepare and implement guidelines for fair trade practices. For trade in scheduled farmers’ produce, the Central Government may impose on Electronic Platforms code of conduct, technical parameters and modalities of trade.

Changes brought by FAPAFS Act

- **Contract Farming:** Sections 3-6 allow a farmer to contract with sponsors, aggregators or farm service providers in respect of any farm services and purchase of farming produce. The contract cannot be in derogation to the rights of a share cropper. The terms of the contract may provide for supply of such produce, quality of produce, price and more. The terms of the contract may also provide for:
 1. The period of contract, which cannot exceed 5 years (subject to exceptions) and cannot be less than one crop season or one production cycle of livestock.
 2. Monitoring and certification of quality, grade and standards by third party qualified assayers.
 3. If price of farming produce is variable:
 - (a) a guaranteed price and;
 - (b) an additional amount over and above the guaranteed price, linked to the prevailing prices in specified APMC yard, electronic platform or other suitable benchmark.
- **Exemptions to farming produce:** Section 7 exempts farming produce from the application of any law regulating its sale and purchase, if a contract has been made for that farming produce under the FAPAFS Act. It further exempts such farming produce from any stock limit under any law.

Dispute Resolution under the FPTC Act and the FAPAFS Act

Section 8 of the FPTC Act and section 14 of the FAPAFS Act lay down the mechanism for dispute resolution which are almost similar. The only difference is that conciliation is optional under the FPTC Act whereas conciliation is mandatory under the FAPAFS Act. What is common is that other than going for conciliation (or if conciliation fails), the parties may approach the SDM and an appeal against the SDM's order will lie before the Collector.

Changes brought by the EC Amendment

Section 3 of the [Essential Commodities Act](#) empowers the Central Government to regulate or prohibit the production, supply, distribution, trade and commerce of any essential commodity on certain grounds. Section 3(1A), as inserted by the EC Amendment, limits those grounds with respect to supply of foodstuffs as notified by the Central Government. The new limited grounds are extraordinary circumstances like war, famine, extraordinary price rise and grave natural calamity. Further, now stock limit will be imposed only if there is 100% increase in the price of horticultural produce or 50% rise in the price of non-perishable agricultural foodstuffs.

Concluding remarks

It is clear that the Farm Laws have deregulated the agricultural sector by allowing farmers to sell their produce anywhere in the country to anyone by bypassing the State AMPC run *mandis*. Consequentially, monopoly of State AMPC will end, leading to private investment in the agriculture sector, increase in competition and establishment of a free market agricultural economy.

At the same time, it cannot be said that an Indian farmer has equal negotiating power when pitted against a private conglomerate in contract farming. This concern also extends to the dispute resolution mechanism where sweeping judicial powers are given to officers of the Executive. However, whether farmers will be bound by unfavourable terms and suffer further through the dispute resolution mechanism is something that can only be answered in due course of time. Moreover, the price rise triggers for regulating essential commodities are considered to be too high, with concerns about greater possibility of hoarding. Lastly, it also remains a debated matter whether the FPTC Act and the FAPAFS Act encroach upon entries under the State list of the Seventh Schedule of the Constitution. There are noteworthy arguments from both sides and the final arbiter on this question can only be the Apex Court.