



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक १००

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Maharashtra Agricultural Produce Marketing (Development and Regulation) (Second Amendment) Bill, 2018 (L.A. Bill No. XLIII of 2018), introduced in the Maharashtra Legislative Assembly on the 12th July 2018, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XLIII OF 2018.

A BILL

*further to amend the Maharashtra Agricultural Produce Marketing
(Development and Regulation) Act, 1963.*

WHEREAS both Houses of the State Legislature were not in session ;

Mah. XX
of 1964.
Mah.
Ord. XIX
of 2018.

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Agricultural Produce Marketing (Development and Regulation) (Second Amendment) Ordinance, 2018, on the 29th June, 2018 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Agricultural Produce Marketing (Development and Regulation) (Second Amendment) Act, 2018. Short title and commencement.

(2) It shall be deemed to have come into force on the 29th June 2018.

Amendment
of section 2
of Mah. XX
of 1964.

2. In section 2 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to as “the principal Act”), in sub-section (1),—

Mah. XX
of 1964.

(a) for clause (f-1b), the following clauses shall be substituted, namely :—

“(f-1b) “Electronic trading” or “E-trading” means the trading of agricultural produce in which registration, auctioning, billing, booking, contracting, negotiation, information exchanging, record keeping and other connected activities are done electronically on electronic trading platform ;

(f-1c) “ Electronic trading platform” or “E-trading Platform” means the electronic platform set up either by the State Government or the Government Agencies or a person licensed under this Act for conducting trading in agricultural produce through electronic media or by any means of communication in which registration, buying and selling, billing, booking, contracting and negotiating are carried out online through computer network or internet or any other such electronic device. Such Electronic trading platform shall be regulated by such authority as may be notified by the Government ;” ;

(b) after clause (f1), the following clause shall be inserted, namely :—

“(f2) “Government Agency” means the agency so notified by the State Government which includes the State Agricultural Marketing Department, the Maharashtra State Agricultural Marketing Board and the Agricultural Produce Market Committee established or constituted under this Act ;” ;

(c) after clause (fa), the following clause shall be inserted, namely :—

“(fb) “licence” means licence granted under the provisions of this Act and the term “licensee” shall be construed accordingly ;” .

Insertion of
CHAPTER I-D
in Mah. XX of
1964.

3. After CHAPTER I-C, the following CHAPTER shall be inserted, namely :—

“ CHAPTER I-D

MARKETING THROUGH ELECTRONIC TRADING

Establish-
ment of
Electronic
trading
platform.

5F. (1) No person other than the State Government or the Government Agencies as may be notified shall establish and run any Electronic trading platform for trading in agricultural produce without holding a licence under this Act.

(2) Save as provided in sub-section (1), the State Government or the Government Agencies as may be notified, may establish and run E-trading platform for trading in agricultural produce in the manner as may be prescribed.

Grant or
Renewal of
licence to
establish
Electronic
trading
platform.

5G. (1) Any person desirous of establishing an E-trading platform under section 5F shall apply to the Director or the Officer authorized by him in such form and manner along with such fee, security or bank guarantee and fulfilling such conditions, as may be prescribed.

(2) The application received under sub-section (1) for grant or renewal of licence may be accepted or rejected for reasons recorded in writing by the licensing authority :

Provided that, the application received under this section shall be liable to be rejected on the reasons *mutatis mutandis* to the reasons laid down in respect of private market under clause (c) of sub-section (3) of section 5D.

(3) The E-trading platform managed and operated by a person or the State Government or the Government Agencies, as the case may be, shall provide all infrastructures and services connected to E-trading, as may be prescribed.

(4) The licensee or its agency may collect user charge on the services provided, which shall be notified by such licensee on its website :

Provided that, the Government may, in the public interest, from time to time, by notification in the *Official Gazette*, put ceiling on the rate of user charge.

5H. A licensee under section 5G, desirous to link to E-platform of the Government of India, may apply, through the State Government or the concerned Government Agencies, to the Department of Agriculture, Co-operation and Farmers' Welfare, in the form and manner, as may be prescribed.

Integration of licence holder under section 5G to E-platform.

5I. In order to evolve a unified National Agricultural Market and integrate various E-trading platforms, the various software applications in the E-trading platform should be interoperable with other E-trading platforms as per the specifications and standards laid down by the Director or the Authority designated therefor.

Interoperability of E-trading platforms.

5J. (1) Notwithstanding anything contained in this Act, payment of agricultural produce traded on Electronic trading platform shall be made on the same day of the sale transaction to the seller on real time basis or, in the maximum next day, if procedurally so required. In procedural exigencies on Electronic trading, the payment to the seller may be made in the manner as may be prescribed by rules.

Payment to the sellers and maintenance of accounts.

(2) The licensee or Agricultural Produce Market Committee, as the case may be, shall maintain accounts of all the transactions taken place on Electronic trading platform and submit such periodical reports and returns to the Managing Director, the Maharashtra State Agricultural Marketing Board or the Authorized Officer, at such time and in such forms, as may be specified by the Director of Marketing, from time to time.

5K. The Director may, by order, for the reasons to be recorded, suspend or cancel the licence granted under section 5G. The breach of any provision of the Act or rules or bye-laws, instructions, orders or guidelines shall be specified in the order :

Provided that, no order for suspension or cancellation of licence shall be passed without giving a reasonable opportunity of being heard.

Suspension or Cancellation of licence of electronic trading platform.

5L. Any dispute arising between or amongst the licensees of E-trading platforms, or between or amongst the licensees and the Agricultural Produce Market Committee or Government Agencies, shall be resolved by the Director or the Officer authorized by him, in summary manner within thirty days, after giving the parties reasonable opportunity of being heard.

Dispute settlement.

5M. Every licensee under section 5G while carrying out E-trading on E-trading platform shall be under obligation to,—

(a) carry out quality assaying of agriculture produce before its transaction takes place,

(b) carry out auction or any other mode of price discovery for the produce in a fair and transparent manner without interference from traders or commission agents,

Obligation of licensee under section 5G for E-trading platform.

(c) maintain recording of all transactions on real time basis and displaying market information on electronic portal of the Maharashtra State Agriculture Marketing Board, Agrimark Net or equivalent on real-time basis in the format prescribed by the Director,

(d) issue trading licenses to all the eligible traders for E-trading without discrimination or favour, within the time limit prescribed by rules framed by the State Government in this regard which shall be countable from the date of making applications,

(e) provide facility for cleaning and grading and warehouses (dry and cold storages) to meet requirement of agriculturists,

(f) not to allow over-trading. ” .

Amendment of
section 7 of
Mah.XX of 1964.

4. In section 7 of the principal Act, after sub-section (3), the following sub-section shall be added, namely :—

“(4) (a) Notwithstanding anything contained in sub-sections (1), (2) and (3) of this section, any person desiring to trade on Electronic trading platform shall obtain certificate of registration as a trader, from such authority as may prescribed in this behalf.

(b) The application for registration under clause (a) shall be made online and in such manner as may be prescribed.

(c) Digitally signed certificate of registration shall be issued by Competent Authority in the Form as may be prescribed.

(d) Notwithstanding anything contained in clause (a) to (c) of this sub-section, the Competent Authority may, for reasons to be recorded in writing, refuse to grant or renew a certificate of registration for carrying out trade to any person, who in its opinion, is found to have acted in a manner detrimental to online trading, or, if the person has not traded for more than six months without any valid reasons, or has exhausted his dynamic cash credit limit with the bank or has failed in online payments of seller, buyer, Commission agent, supervision cost, market fee and any other payments under the Act, rules and bye-laws. If any, registration is not granted or renewed the applicant shall be informed of the same giving the reasons therefor and the registration fee, if paid, shall be forfeited to the market fund or to the State Government, as the case may be.

(e) The Certificate of Registration for electronic trading shall be valid in respect of the person in whose name that is issued and shall not be transferable.

(f) Certificate of registration shall be liable for suspension or cancellation if there is-

(i) breach of any rules meant for transparency and price discovery in a fair manner ; or

(ii) over-trading above the available cash credit limit by fraudulent means ; or

(iii) refusal or deceitfully declining making online payments on real time basis for commodity traded and other payments under the Act, rules and bye-laws.

(g) Every certificate of registration so granted or renewed shall be in force for a period of three years from the date of granting or renewing Certificate.

(h) Each Market Committee and Private Market having electronic trading platform shall publish the list of all the certificate of registration online for traders having registration for using E-trading platform of the market.

5. After section 46 of the principal Act, the following section shall be inserted, namely :-

Insertion of section 46A in Mah. XX of 1964. Penalty for contravention of provisions relating to E-trading.

“46A. Whoever in contravention of the provisions of section 5G uses E-trading platform for marketing of any agricultural produce, or operates as a trader or in any other capacity, without a valid licence, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which shall not be less than five thousand rupees which may extend to one lakh rupees or with both; and in the case of a continuing contravention with a further fine which may in the case of contravention of section 5G extend to five hundred rupees; and in any other case, to three hundred rupees per day, during which the contravention is continued after the first conviction.”.

6. In section 60 of the principal Act, in sub-section (2),—

Amendment of section 60 of Mah. XX of 1964.

(a) after clause (a-2), the following clauses shall be inserted, namely :-

“(a-3) under section 5F, for prescribing the manner in which the State Government or Government Agencies may establish and run E-trading platform for trading in the agricultural produce ;

(a-4) under section 5G,-

(i) for prescribing the form and manner along with fee, security or bank guarantee and conditions for applying licences to establish and run E-trading platform and for its renewal ;

(ii) for prescribing the infrastructure and services connected with E-trading which shall be provided for the purposes of E-trading ;

(a-5) under section 5H, for prescribing the form and manner for integration of licence holder to link to E-platform of the Government of India;

(a-6) under section 5J, for prescribing the manner of making payment to the seller traded on E-trading platform and maintenance of accounts; ”.

(b) after clause (b), the following clause shall be inserted, namely :-

“(b-1) under section 7, under sub-section (4), for prescribing the authority who shall grant certificate of registration for trading on Electronic trading platform, the form of online application for obtaining such certificate of registration, the form of certificate of registration ; ” .

7. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of the principal Act, as amended by this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Power to remove difficulty.

Provided that, no such order shall be made after the expiry of a period of two year from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each house of the State Legislature.

Repeal of
Mah. Ord.
XIX of 2018
and saving.

8. (1) The Maharashtra Agricultural Produce Marketing (Development and Regulation) (Second Amendment) Ordinance, 2018, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

Mah.
Ord. XIX
of 2018.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Agricultural produce Marketing (Development and Regulation) Act, 1963 (Mah. XX of 1964), is enacted to develop and regulate the marketing of agricultural and certain other produce in market areas and markets including private markets and farmer consumer markets established therefor in the State, to confer powers upon Market Committees to be constituted in connection with or acting for purposes connected with such markets and to establish Market Fund for the purposes of the Market Committee and to provide for purposes connected with the matters aforesaid.

2. The Agricultural Produce Market Committees have been established as a platform for farmers to sell their agricultural produce and obtain a fair and reasonable price in return. With introduction of the proposed amendments farmers who are actual backbone of Market Committees and having knowledge of the hurdles and difficulties in marketing of agricultural produce will have maximum benefits of competition to the Farmers.

3. The Central Government and the State Government are consistently trying to get better prices for agricultural produce of the farmers. The Central and State Government is implementing E-NAM scheme in 60 Agricultural Produce Marketing Committees of the State to minimize the hurdles arising in trading of agricultural produce in Agricultural Produce Market Committee and implementing Online system for trading of Agricultural Produce to get better price to Farmers, for their agricultural produce. For this purpose, it was necessary to provide licenses to traders for Electronic trading platform, so that real time basis payments to the farmers can be ensured. Hence, it was proposed to amend the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (Mah. XX of 1964).

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Agriculture Produce Marketing (Development and Regulation) Act, 1963 (Mah. XX of 1964), for the purposes aforesaid, the Maharashtra Agricultural Produce Marketing (Development and Regulation) (Second Amendment) Ordinance, 2018 (Mah. Ord. XIX of 2018) was promulgated by the Governor of Maharashtra on the 29th June 2018.

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Nagpur,

Dated the 9th July 2018.

SUBHASH DESHMUKH,

Minister for Marketing.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely:—

Clause 2.- Under this clause, which seeks to amend sub-section (1) of section 2 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, power is taken to the State Government,—

(a) under new clause (f-1c), to notify the authority who shall regulate the Electronic trading platform;

(b) under new clause (f2), to notify the agency which shall be Government Agency for the purposes of the said clause.

Clause 3.- Under this clause, which seeks to insert new Chapter I-D in the said Act, power is taken to the State Government,—

(a) in new section 5F,—

(i) in sub-section (1) thereof, to notify the agency which shall be competent to establish and run Electronic trading platform for trading in agricultural produce ;

(ii) in sub-section (2) thereof, to prescribe, by rules, the manner in which the State Government or the Government Agency may establish and run Electronic trading platform for trading in agricultural produce ;

(b) in new section 5G,—

(i) in sub-section (1) thereof, to prescribe, by rules, the form and the manner of making of application for establishing an E-trading platform and the fee, security or bank guarantee and the conditions required therefore;

(ii) in sub-section (3) thereof, to prescribe, by rules, the infrastructures and services connected to E-trading which shall be provided by a person or the State Government or the Government Agencies, as the case may be, managing and operating the E-trading platform;

(iv) in proviso to sub-section (4) thereof, to put, in the public interest, from time to time, by notification in the *Official Gazette*, ceiling on the rate of user charge;

(d) in new section 5H, in sub-section (1) thereof, to prescribe, by rules, the form and manner in which a licensee under section 5G may apply, through the State Government or the concerned Government Agencies, for having link to E-platform of the Government of India;

(e) in new section 5J, in sub-section (1) thereof, to prescribe by rules, the manner in which the payment may be made to the seller in procedural exigencies on Electronic trading;

(f) in new section 5M, in clause (d), to prescribe, by rules, time limit within which the trading licenses to the eligible trader for E-trading shall be issued.

Clause 4.- Under this clause, which seeks to add new sub-section (4) to section 7 of the Act,—

(a) in paragraph (a) thereof, to prescribe, by rules, the authority who shall grant certificate of registration as trader for trading on Electronic trading platform;

(b) in paragraph (b) thereof, to prescribe, by rules, the manner in which application for registration shall be made online;

(c) in paragraph (c) thereof, to prescribe, by rules, the Form of digitally sign certification of registration shall be issued by the competent authority.

Clause 6.- Under this clause, which seeks to amend sub-section (2) of section 60 of the Act, power is taken to the State Government to make rules,—

(a) in new clause (a-3), for prescribing, under section 5F, the manner in which the State Government or Government Agencies may establish and run E-trading platform for trading in the agricultural produce ;

(b) in new clause (a-4),—

(i) for prescribing, in section 5G, the form and manner alongwith fee, security or bank guarantee and conditions for applying licences to establish and run E-trading platform and for its renewal ;

(ii) for prescribing, in section 5G, the infrastructure and services connected with E-trading which shall be provided for the purposes of E-trading ;

(iii) in new clause (a-5), for prescribing, under section 5H, the form and manner for integration of licence holder to link to E-platform of the Government of India ;

(iv) in new clause (a-6), for prescribing, in section 5J, the manner of making payment to the seller traded on E-trading platform and maintenance of accounts ;

(v) in new clause (b-1), for prescribing, under sub-section (4) of section 7, the authority who shall grant certificate of registration for trading on Electronic trading platform, the form of online application for obtaining such certificate of registration, the form of certificate of registration.

Clause 7.- Under this clause, power is taken to the State Government , to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of the Act, as amended by the proposed law, within a period of two years from the date of commencement of the Amendment Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.