

State Legislative Brief

GUJARAT, HIMACHAL PRADESH, KARNATAKA, MADHYA PRADESH, TAMIL NADU

Ordinances amending state agriculture produce marketing laws

Key Features

- These Ordinances promote multiple channels for marketing of agriculture produce in these states
- These channels include direct marketing, private market yards, and electronic trading
- The Ordinances require all market functionaries to obtain licences to trade in any agricultural produce

Issues to Consider

- Compulsory licensing of market functionaries may continue to hinder the entry of new persons into markets and stifle competition
- It has been noted that infrastructure in APMC markets is lacking. These Ordinances do not specify (or delegate) any infrastructure standards

The central government has also issued an Ordinance, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020. This Ordinance allows any person who has a PAN card to purchase agricultural produce outside APMC Markets without any restriction or a fee or cess.

Agriculture marketing in most states is regulated by the Agriculture Produce Marketing Committees (APMCs) established by state governments under their respective agricultural produce marketing laws.¹ Few states such as Bihar, Kerala, and Manipur do not have APMC markets. APMCs regulate the sale of agricultural produce through licensing, collect market fees from such sale, and provide infrastructure within their markets to facilitate marketing of such produce.

The Standing Committee on Agriculture (2018-19) observed that the APMC laws are not implemented in their true sense and need to be reformed urgently.² The Committee noted that the APMC laws are highly restrictive in promotion of multiple channels of marketing (such as private markets, direct sale to businesses and retail consumers, and online transactions) and competition in the system.² In 2017, the central government released the model Agricultural Produce and Livestock Marketing (Promotion and Facilitation) Act, 2017 to provide states with a template to enact new legislation and bring comprehensive market reforms in the agriculture sector.³ The 2017 model Act aims to allow restriction-free trade of agricultural produce and promotes competition by encouraging the operation of multiple channels of marketing.³

Based on the model Act, certain states have issued Ordinances to amend or replace the existing regulatory mechanism set up under their state APMC Acts. This note discusses the Ordinances issued by Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, and Tamil Nadu in this regard.^{4,5,6,7,8} These Ordinances have been issued to provide for geographically restriction-free trade of agricultural produce and promote multiple channels for marketing of agriculture produce in these states.^{6,7,8}

Key Features

We summarise below the main features of each of the five state Ordinances.

Gujarat

The Gujarat Agricultural Produce Markets (Amendment) Ordinance, 2020 was promulgated on May 6, 2020.⁶ It amends the Gujarat Agricultural Produce Markets Act, 1963.⁹ It renames the Act as the Gujarat Agricultural Produce and Livestock Marketing (Promotion and Facilitation) Act, 1963. Key features include:

- **Regulation of livestock marketing:** The Act regulates the marketing of agricultural produce notified in the Schedule to the Act. Agricultural produce is defined as all processed or unprocessed produce of agriculture or horticulture. The Ordinance includes livestock within the definition of agricultural produce.
- **Unified market area:** Under the Act, the Director of Agricultural Marketing and Rural Finance (Director) can notify an area as a market area. Any purchase or sale of agricultural produce within the market area (except direct farmer-to-consumer transactions) is regulated under the Act. The Ordinance provides that the state government may notify the whole state as one unified market area for regulation of marketing of all or any of the notified agricultural produce. Further, the Ordinance provides that the state government may bring Haats (small rural periodic markets) under the regulation of the Act (after consultations with local authorities who own and operate these markets).

- **Unified single licence:** The Act allows APMCs to grant licences to traders to operate in their market area. The Ordinance provides that the Director will grant a unified single licence to traders. This licence can be used by the trader to operate in any principal market yard, sub-market yard, private market yard, or e-trading platform in the state. The fee payable for obtaining a trading licence will continue to be paid to the APMCs. Existing licences of traders will be deemed to be unified single licences.
- **Private market:** The Act allows establishing a private market for: (i) trade of fruits and vegetables, (ii) export of agricultural produce, and (iii) processing, grading, packaging, and adding value in any other way to agricultural produce. The Ordinance adds that the state government may declare a place to be a private market yard, private market sub-yard, or private farmer-consumer market yard, for marketing of notified agricultural produce. Such place may include any: (i) structure, (ii) enclosure, and (iii) open space locality, including warehouses and packaging and processing units.
- **Market fee and user charges:** The Act provides that the managing body of a private market shall levy market fees on agricultural produce being transacted at such rate as may be prescribed. The Ordinance provides that the owner of a market sub-yard may collect: (i) a market fee on notified agricultural produce, and (ii) a user charge on de-notified agricultural produce, transacted at the market sub-yard. Such fees should not exceed the rates notified by the state government.
- **E-Trading:** The Act provided that any person can establish an electronic market after applying for a licence for the same. The Ordinance provides for the establishment and promotion of electronic trading (e-trading) platforms, by the state, its agency, or by an individual who obtains a separate licence from the Director.
- **Regulation of trading:** The Ordinance empowers the Market Committee to permit a licence holder to sell notified agricultural produce, outside licensed market areas or e-trading platforms.

Himachal Pradesh

The Himachal Pradesh Agricultural Produce Marketing (Promotion and Facilitation) Ordinance, 2020 was promulgated on May 28, 2020.⁸ It seeks to replace the Himachal Pradesh Agricultural and Horticultural Produce Marketing (Development and Regulation) Act, 2005.¹⁰ Key features include:

- **Unified Market Area:** The Act provides that the state government may notify a specific area to be a market area to regulate the marketing of specified agricultural produce in such an area. The Ordinance adds that the whole state may be declared a single unified market area for the sale of notified agricultural produce.
- **Unified Trading Licence:** The Act provides that any person trading, transacting or dealing in notified agricultural produce in more than one market area, must register for each respective function with the Managing Director of the Agricultural Marketing Board. The Ordinance provides for the grant of a single unified trading licence which will be granted by the Director of Agricultural Marketing and will be valid state-wide in any market area.
- **E-Trading:** The Ordinance defines e-trading as trading of agricultural produce in which registration, auctioning, billing, negotiating, record keeping and other connected activities are done electronically on computer network or internet. The Ordinance provides that a licence granted by the Director of Agricultural Marketing is necessary to establish an e-trading platform.
- **Single point of levy of market fee:** The Ordinance provides that market fee cannot be levied for a second time under any name including cess, user charge, or service charge. Market fee will be charged at a rate not exceeding 2% on transactions of non-perishable produce, and up to 1% on perishable produce.
- **Same/next day payment:** The Ordinance provides that the payments for transactions should be made on the same or the next day. This is guaranteed to: (i) sellers for the sale of notified agricultural produce in market yards, private market yards, or at e-trading platforms, and (ii) agriculturists if notified produce is sold via direct marketing.
- **Inter-state trade:** The Ordinance provides that the state may allow traders holding a single unified licence issued by another state to undertake trade (including e-trading) in any market area within its jurisdiction.

Karnataka

The Karnataka Agricultural Produce Marketing (Regulation and Development) (Amendment) Ordinance, 2020 was promulgated on May 16, 2020.⁴ It amends the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966.¹¹ It makes the following amendments to the Act:

- **Places designated for marketing:** Under the Act, purchasing or selling notified agricultural produce in places other than the designated market yards or sub-yards is an offence. This does not apply in certain

cases such as a retail sale by a trader and direct purchase from farmers. The Ordinance removes this offence and allows purchase and sale in places other than the designated market yards or sub-yards.

- **Regulation by APMCs:** The Ordinance specifies that APMCs will regulate the marketing of notified agricultural produce in the market yards, market sub-yards, and sub-market yards.

Madhya Pradesh

The Madhya Pradesh Krishi Upaj Mandi (Amendment) Ordinance, 2020 was promulgated on May 1, 2020.⁵ It amends the Madhya Pradesh Krishi Upaj Mandi Act, 1972.¹² It makes the following amendments to the Act:

- **Private market yards and e-trading:** The Act empowers the state government to declare any specified place in the market area, such as any structure, enclosure, open place, or locality, as market yards or sub-market yards. The Ordinance provides that private market yards and e-trading platforms can be set up in the state, in addition to the principal market yard and sub-market yards managed by APMCs.
- **Director of Agricultural Marketing:** The Ordinance provides for the appointment of the Director of Agricultural Marketing by the state government. Functions of the Director will include: (i) granting licences for trading of agricultural produce, establishing private market yards, and electronic trading, and (ii) regulating trading and associated activities, private market yards, and e-trading platforms.
- **Rules:** The Ordinance allows the state government to prescribe: (i) the terms and conditions on which licences shall be granted for trading in agricultural produce in any part of the state, establishing a private market yard, and electronic trading, and (ii) the fee for such licences.

Tamil Nadu

The Tamil Nadu Agricultural Produce Marketing (Regulation) Second Amendment Ordinance, 2020 was promulgated on May 28, 2020.⁷ It amends the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987.¹³ Some of the key amendments being made to the Act are:

- **Unified market area:** The Ordinance establishes the whole state of Tamil Nadu, excluding the market areas under the control of APMCs, as a unified market area.
- **Private market yards and sub-yards:** The Ordinance allows any person to establish a private market yard anywhere in the unified market area. It also allows the state government to notify structures or places such as silos, warehouses, cold storages, or other such infrastructure facilities as private market sub-yards. The owners of such private market yards or sub-yards are required to obtain a licence from the Director of Agricultural Marketing and Agri-Business (Director). The licences will be valid for a period of three years.
- **Direct marketing:** The Ordinance allows direct marketing, i.e. direct wholesale purchase of agricultural produce from farmers, outside the APMC markets. It provides that collection or aggregation centres can be set up close to any production area or within a designated food park for direct marketing. It can also be carried out, without setting up such centres, in areas specified for this purpose, including private market yards and sub-yards. A buyer engaging in direct marketing is required to obtain a licence from the Director and report trade transactions on a monthly basis. Such licence will be valid for a period of three years.
- **Dispute Settlement:** The Ordinance provides for the Director to be the arbiter of all disputes between various categories of licensees.

Issues for consideration

Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, and Tamil Nadu have issued Ordinances to enable multiple channels of marketing for agriculture produce.^{4,5,6,7,8} We analyse some key issues with the APMC laws in these states.

System of licensing

The Standing Committee on Agriculture (2018-19) noted that state APMC Acts are highly restrictive in promotion of multiple marketing channels and competition in the system.¹ Consequently, farmers are unable to sell produce at remunerative prices because of the lack of competition. Further, the Committee observed that APMC markets across the country are not working in the interest of farmers due to reasons such as: (i) limited traders in APMC markets thereby reducing competition, (ii) cartelisation of traders, and (iii) high deductions in the form of commission charges and market fees.¹ The Committee suggested that states should reform their

APMC Acts by introducing reforms such as enhancing the number of marketing platforms for farm produce and making the functioning of APMC markets democratic and transparent.

Accordingly, the Ordinances issued by Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, and Tamil Nadu remove certain geographical restrictions on the trade of agricultural produce and allow the trade of agricultural produce outside the state APMC markets. These five states now allow for: (i) setting up agricultural produce market in the private sector, (ii) direct marketing, and (iii) electronic trading (other than Tamil Nadu).^{1,4,5,6,7,8}

However, some issues such as cartelisation of market functionaries may continue to prevail even after these Ordinances are enacted. The Committee of State Ministers on Agricultural Marketing Reforms (2013) had observed that the system of licensing is restrictive.¹⁴ Traders, commission agents, and other market functionaries organise themselves into associations, which does not allow easy entry of new persons into markets and stifles competition. The practice of compulsory licensing of commission agents and traders in the regulated markets has led to the creation of monopolies for market functionaries.¹⁶ Several experts have recommended that licensing should be replaced by a one-time simple registration system.^{14,16} However, the Ordinances issued by Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, and Tamil Nadu require all market functionaries to obtain licences to trade in any agricultural produce.

Note that the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020, promulgated by the central government in June 2020, provides that a buyer does not require any licence to trade in agricultural produce outside the state APMC markets (i.e., outside the market yards, warehouses etc. provided by the APMCs).¹⁵ Under the Ordinance, any trader having a PAN card can directly buy produce from farmers anywhere outside the APMC markets.¹⁵ As the central law will prevail over the state law, traders will not require a license or will have to pay a fee or cess for such transactions outside APMC markets.

Status of infrastructure in APMC markets

The Himachal Pradesh, Karnataka, and Madhya Pradesh Ordinances/Acts provide that the respective state government will prescribe infrastructure requirements for private market yards, farmer-consumer market yards, and sub-market yards (such as warehouse, silos, and cold storage).^{8,11,12} The Tamil Nadu Act provides that the APMCs may construct infrastructural facilities in the notified market areas. However, the Acts or Ordinances for these states do not specify infrastructure standards for APMC markets, nor delegate them to the government.

The Gujarat Ordinance, on the other hand, provides that the Market Committee Fund shall be utilised for the development of common marketing infrastructure and the state government may make Rules regarding the infrastructure, services, and the manner for providing it.⁶

The Committee of State Ministers on Agricultural Marketing Reforms (2013) noted that the benefits available to farmers from regulated markets depends on the facilities available therein.¹⁴ The Standing Committee on Agriculture (2018-19) observed that infrastructure and other civic facilities in most APMC markets are in a bad shape.¹ This causes inconveniences to farmers such as lack of storage for perishable items and inadequate weighing scales to determine prices. It also reduces the efficiency of the markets. Across the country, only 65% of markets have toilets, 38% have rest houses, 15% have a cold storage facility, and 49% have weighing facilities.¹ Table 1 provides a percentage of markets that have various infrastructure and facilities.

Table 1: Percentage of APMC markets with various facilities (All India)

Type of facility	Facility	Markets where the facility existed (%)
Market Facilities	Godown	83%
	Cold storage	15 %
	Covered platform	66%
	Grading facility	22%
	Drying platform	29%
	Weighing facility	49 %
Civic Facilities	Drinking water	76 %
	Toilet facility	65 %
	Farmers' Rest House	38 %
	Canteen	32 %
	Banking facility	7%
	Internet cafe	12 %

Note: Data is from May 2015

Source: Report no. 62, Standing Committee on Agriculture, 2019; PRS.

Regulation of Gramin Haats

The Standing Committee on Agriculture (2018-19) observed that most farmers lack access to government procurement facilities and APMC markets.¹ This is due to an insufficient number of APMC markets, long distances to the nearest APMC market, and lack of transportation facilities, among others.¹ Table 2 gives details on average area covered by APMC markets in Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, and Tamil Nadu.

Table 2: State-wise details of regulated markets

State	Total Area (sq. km.)	Total APMC markets	Average area covered by one APMC (sq. km.)
Gujarat	1,96,024	400	490
Himachal Pradesh	55,673	56	994
Karnataka	1,91,791	513	374
Madhya Pradesh	3,08,144	545	565
Tamil Nadu	1,30,058	283	460

Source: Report no. 62, Standing Committee on Agriculture, 2019; PRS.

The Standing Committee on Agriculture (2018-19) observed that the average area served by an APMC market in the country is 496 sq. km. Further, it can be seen in Table 2 that the average area covered by one APMC market is 994 sq. km. in Himachal Pradesh and 565 sq. km. in Madhya Pradesh. This is much higher than the 80 sq. km. recommended by the National Commission on Farmers (Chair: Dr. M. S. Swaminathan) in 2006.¹ The Standing Committee noted that there is a need of 41,000 markets in the country to meet the 80 sq. km. requirement. It recommended that the number of agriculture markets should be increased.

Further, it noted that Gramin Haats (small rural markets) can provide farmers direct access to consumers, require less transportation cost, and thus, may emerge as a viable alternative for agriculture marketing. The Standing Committee also recommended that Gramin Haats should be kept out of the ambit of the APMC Acts.¹ However, the Gujarat and Himachal Pradesh Ordinances provide that the state government may bring such markets under the regulation of the Act (after consultations with local authorities who own and operate these markets).^{6,8} Further, the Madhya Pradesh Act covers Haat Bazaars under the ambit of its APMC Act.¹²

Tamil Nadu

Market fee for fruits and vegetables

The Tamil Nadu Ordinance or Act does not de-regulate fruits and vegetables or exempt them from market fee.^{7,13} However, various experts have recommended that fruits and vegetables should be taken out of the ambit of APMC Acts and market fees should not be levied on these commodities.^{1,14,16}

The Committee on Agricultural Marketing Reforms (2013) had noted that there is a high wastage of fruits and vegetables due to lack of marketing infrastructure, absence of sufficient cold storage areas, and a dis-organised distribution system.¹⁴ In 2012-13, the extent of post-harvest losses was around 7% to 16% for fruits and around 7% to 12% for vegetables (around Rs 31,000 crore based on 2014 prices).¹⁷ This is because fruits and vegetables are highly perishable items and delay in their sales impacts their quality and results in wastages and reduction in supplies (increasing their prices).¹⁸ Exempting such items from the levies imposed by APMCs is expected to have a valuable effect on their prices.

Note that Gujarat has removed fruits and vegetables from the ambit of its APMC Act.¹⁹ Similarly, Madhya Pradesh has put fruits and vegetables outside the ambit of market regulation when purchased or sold outside the notified market yard.¹⁹ Karnataka and Himachal Pradesh have exempted market fee on all fruits and vegetables (except apple in Himachal Pradesh).¹⁹

Note also that, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 promulgated by the central government prohibits states from levying any market fee, cess, or tax on farmers, traders, and electronic trading platforms for trading in agricultural produce outside the state APMC markets.¹⁵

¹ Report No. 62, Standing Committee on Agriculture, 'Agriculture Marketing and Role of Weekly Gramin Haats', Lok Sabha, January 3, 2019, http://164.100.47.193/lssccommittee/Agriculture/16_Agriculture_62.pdf.

² Report No. 8, Standing Committee on Agriculture (2019-20): Action taken by the government on the report 'Agriculture Marketing and Role of Weekly Gramin Haats', Lok Sabha, December 12, 2019, http://164.100.47.193/lssccommittee/Agriculture/17_Agriculture_8.pdf.

- ³ Model Agricultural Produce and Livestock Marketing (Promotion and Facilitation) Act, 2017, Ministry of Agriculture and Farmers' Welfare, Government of India, April 2017, http://agricoop.gov.in/sites/default/files/APLM_ACT_2017_0.pdf.
- ⁴ Karnataka Agricultural Produce Marketing (Regulation and Development) (Amendment) Ordinance, 2020, https://prsindia.org/files/bills_acts/bills_states/karnataka/2020/Karnataka%20APMC%20Regulation%20and%20Development%20Amendment_Ordinance%2020201.pdf.
- ⁵ Madhya Pradesh Krishi Upaj Mandi (Sanshodhan) Ordinance, 2020, [https://prsindia.org/files/bills_acts/bills_states/madhya-pradesh/2020/Madhya%20Pradesh%20Krishi%20Upaj%20Mandi%20\(Sanshodhan\)%20Ordinance.%202020.pdf](https://prsindia.org/files/bills_acts/bills_states/madhya-pradesh/2020/Madhya%20Pradesh%20Krishi%20Upaj%20Mandi%20(Sanshodhan)%20Ordinance.%202020.pdf).
- ⁶ Gujarat Agricultural Produce Markets (Amendment) Ordinance, 2020, https://prsindia.org/files/bills_acts/bills_states/gujarat/2020/Gujarat%20APMC%20Ordinance%202020.pdf.
- ⁷ Tamil Nadu Agricultural Produce Marketing (Regulation) Second Amendment Ordinance, 2020, https://prsindia.org/files/bills_acts/bills_states/tamil-nadu/2020/Tamil%20Nadu%20APMC%20Regulation%20Amendment_Ordinance%202020.pdf.
- ⁸ Himachal Pradesh Agricultural Produce Marketing (Promotion and Facilitation) Ordinance, 2020, https://prsindia.org/files/bills_acts/bills_states/himachal-pradesh/2020/Ordinance%202%20of%202020.pdf.
- ⁹ Gujarat Agricultural Produce Markets Act, 1963, <https://www.informe.org/sites/default/files/legislation/IND170467.pdf>.
- ¹⁰ Himachal Pradesh Agricultural and Horticultural Produce Marketing (Development and Regulation) Act, 2005, [https://himachal.nic.in/WriteReadData/1892s/10_1892s/THE%20HIMACHAL%20PRADESH%20AGRICULTURAL%20AND%20HORTICULTURAL%20PRODUCE%20MARKETING%20\(DEVELOPMENT%20AND%20REGULATION\)%20ACT,%202005-98148266.pdf](https://himachal.nic.in/WriteReadData/1892s/10_1892s/THE%20HIMACHAL%20PRADESH%20AGRICULTURAL%20AND%20HORTICULTURAL%20PRODUCE%20MARKETING%20(DEVELOPMENT%20AND%20REGULATION)%20ACT,%202005-98148266.pdf).
- ¹¹ Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966, https://prsindia.org/files/bills_acts/acts_states/karnataka/1966/1966KR27.pdf.
- ¹² Madhya Pradesh Krishi Upaj Mandi Act, 1972, https://prsindia.org/files/bills_acts/acts_states/madhya-pradesh/1973/1973MP24.pdf.
- ¹³ Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987, https://prsindia.org/files/bills_acts/acts_states/tamil-nadu/1989/1989TN27.pdf.
- ¹⁴ Report of Committee of State Ministers, In-charge of Agriculture Marketing to Promote Reforms, 2013, <https://dmi.gov.in/Documents/stminpreform.pdf>.
- ¹⁵ Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020, https://www.prsindia.org/sites/default/files/bill_files/Produce%20Trade%20and%20Commerce.pdf.
- ¹⁶ Agricultural Marketing and Farmer Friendly Reforms Across Indian States and UTs, Niti Aayog, October 2016, [file:///C:/Users/Dell/Downloads/NITI%20Aayog's%20Assessment%20of%20Marketing%20Reforms%20in%20States%20\(2016\).pdf](file:///C:/Users/Dell/Downloads/NITI%20Aayog's%20Assessment%20of%20Marketing%20Reforms%20in%20States%20(2016).pdf).
- ¹⁷ Report No. 38, Standing Committee of Agriculture, "Demands for Grants (2017-18)", Lok Sabha, March 2017, http://164.100.47.193/lssccommittee/Agriculture/16_Agriculture_38.pdf.
- ¹⁸ Unstarred Question No. 3675, Lok Sabha, Ministry of Agriculture, August 5, 2014, <http://loksabhaph.nic.in/Questions/QResult15.aspx?qref=3064&lsno=16>.
- ¹⁹ Starred Question No. 257, Lok Sabha, Ministry of Planning, August 2, 2017, <http://164.100.47.194/loksabha/questions/QResult15.aspx?qref=56082&lsno=16>.

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