

TEXTILES (DEVELOPMENT AND REGULATION) ORDER, 1993

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TEXTILES (DEVELOPMENT AND REGULATION) ORDER, 1993

G.S.R. 916 (E), dated 7th December, 1993.' In exercise of the powers conferred by Sec. 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely,

PART 1

1

1. Short title, extent and commencement. :-

(1) This Order may be called the Textiles (Development and Regulation) Order, 1993.

(2) It extends to the whole of India.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. Repeal and savings. :-

The Textile (Control) Order, 1986 is hereby repealed:

Provided that any order made, notification issued, right accrued, penalty incurred or anything done or deemed to have been done under the Order so repealed shall be deemed to have been made, issued, accrued, incurred or done under the corresponding provisions of this Order.

3. Definitions. :-

In this Order, unless there is anything repugnant in the subject or context,

(1) "appellate authority" means the officer of the State Government or Union Territory Administration within whose territory the powerloom or existing powerloom in the Small Scale Industries Sector is located and who is notified as such, and in respect of other matters the Textile Commissioner;

(2) the expression "possession of any article" shall be deemed to be in the possession of a person when it is held on behalf of that person by another person or when it is held by that person on behalf of another person;

(3) "certificate" means the certificate of registration granted under this Order;

(4) "city" means the standard urban at a limit of a municipal

authority (by whatever name called) with a population of more than ten lakhs as determined in the Census of India, 1991;

(5) "cloth" means any fabric made either equally or predominantly from natural silk, cotton wool or man-made fibre (continuous), man-made fibre (discontinuous), wastes or any of these materials or any predominant of equal communication thereof, but does not include the following commodities namely

(a)hose pipe;

(b)leather cloth, inferior or imitation leather cloth ordinarily used in book-binding or for making book- binding cloth;

(c)made-up clothing;

(d)plush cloth, in the manufacturer of which any spun yarn filament is used;

(e)rubberised or synthetic water-proof fabric whether single textured or double textured;

(f)tracing paper;

(g)tops;

(h)man-made fibres;

(6) "controlled cloth" means any variety or class or specification of cloth for which maximum price or the principles on which or the manner in which the maximum price is to be determined by a manufacturer as specified by the Textile Commissioner under Cl. 8;

(7) "cotton yarn" or "cotton cloth" means any yam or cloth other than silk yarn and silk cloth where cotton is equal or predominant by weight;

(8) "form" means a Form appended to this Order;

(9) "knitting machine" means a warp-knitting machine and includes a machine commonly known as Rascheal knitting machine;

(10) "lace making machine" means a machine worked by power for the production of fabrics of open mesh or net formed by crossing and interviewing threads;

(11) "man-made fibre yarn" and "man-made fibre cloth" means yam and cloth than silk, cotton or woollen yam and cloth;

(12) "manufacturer" includes a producer or processor including the hand processor, or both and the expression "manufacturer" and its grammatical variations shall be construed accordingly;

(13) the expression "offer to sell" shall be deemed to include a reference to an intimation by a person of the price proposed by him for the sale of an article, made by the publication of a price list by exposing the article for sale in association with or bearing a mark including price by the furnishing of a quotation or otherwise howsoever;

(14) "other textile products" means all textile products including textile fibres and filament yarn but excludes cloth yarn and fibre;

(15) "permit" means the permit granted under this order;

(16) "person" includes (i) an association of persons or a body of individuals whether incorporated or not; and or (ii) a company as defined in the Companies Act, 1956 (1 of 1956) (iii) a firm/dealer/manufacturer/processor/producer; (iv) a Hindu undivided family; (v) every artificial juridical person, not falling within any of the preceding items;

(17) "power" has the same meaning as in Cl. (g) of Section 2 of the Factories Act, 1948 (63 of 1948);

(18) "powerloom" means a loom which is worked by power and which is used or may be used for weaving cloth;

(19) "processor" means a person other than a producer engaged in any ancillary process subsequent to the production of cloth or yarn such as texturising, twisting, crimping, winding, sizing, singeing, warping, scouring, dyeing, bleaching, mercersing, embroidering, printing, raising, cloth embossing or finishing, on any equipment and the expression "process" and its grammatical variations shall be construed accordingly;

(20) "producer" means a person engaged in the production of value addition to yarn or cloth or other textile products as defined in item (14) directly or indirectly and the expression "produce" and its grammatical variations shall be construed accordingly;

(21) "silk yarn" and "silk cloth" means yarn and cloth where natural silk is equal or predominant by weight or value if the weight of natural silk is equal or predominant along with any other fibre;

(22) "spinning machine" means ring frame and includes spindles, rotors or any other device worked by power and used for production of yarn;

(23) "Textile Commissioner" means the Textile Commissioner appointed by the Central Government and include any Additional Textile Commissioner or Joint Textile Commissioner appointed by the Central Government in the office of the Textile Commisisoner;

(24) "wool" include animal hair;

(25) "top" means top from wool/man-made fibres/tow used for spinning yarn on worsted system;

(26) "woollen yarn" or "woollen cloth" means yarn or cloth other than silk yarn and silk cloth or cotton yarn and cotton cloth, where wool is equal or predominant by weight, and includes yam manufactured out of pulled or garnetted rags;

(27) "yarn" with its grammatical variations, means yarn manufactured equally or predominantly from natural silk, cotton, wool, man-made fibre (continuous), man-made fibre (discontinuous) or waste of any of these materials, or any equal or predominant combination thereof.

PART 2

SPINNING MACHINE, KNITTING MACHINE OR LACE MAKING MACHINE

4. 4 :-

(1) Every person on installing the Spinning Machine, Knitting Machine or Lace making machine subject to the provisions of any Central or State law shall submit an Information Memorandum as set out in Form I appended with this Order to the Textile Commissioner, Government of India, Bombay:

Provided with this Order that in case of non-Small Scale Industrial Units where the location is within twenty-five kilometers from the periphery of the standard urban area limits of a city having a population often lacs or above as per 1991 census, and if these units are not located within the areas designated as "Industrial Areas" by the State Government before July 24, 1991 and the project is covered by Industries (Development and Regulation) Act, 1951 (65 of 1951), then installation of such machines will be regulated as per provisions of the Industrial (Development and Regulation) Act, 1951 (65 of 1951);

(2) The Information Memorandum shall be made within thirty days of installation to the Textile Commissioner;

(3) The Information Memorandum shall be accompanied by a Bank Demand Draft for rupees one thousand only payable at Bombay in favour of the Textile Commissioner. The fee so paid shall be non-refundable and no fee shall be charged in the case of any Information Memorandum, for installation of spinning machine, knitting machine or lace making machine to be used for the purpose of Research and Development or sampling;

(4) On receipt of the Information Memorandum the Textile Commissioner shall issue an acknowledgment as set out in Form 2 appended with this Order, within thirty days;

(5) Nothing in this clause shall apply to the installation of a spinning machine in pursuance of a licence where such licence is required under the provisions of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

5. 5 :-

Every person who sells or otherwise disposes of any installed spinning machine, knitting machine or lace making machine to any person or changes the location of the spinning machine shall inform the Textile Commissioner about the sale or disposal of the change in the location, as the case may be within thirty days from the date of such sale or disposal or change of location:

Provided that in case of non-Small Scale Industrial Units where the new location is within twenty five kilometers from the periphery of the standard area limits of a city, having a population of ten lacs or above as per 1991 census :

Provided further that if these are not located within the areas designated as Industrial Areas by the State Government before July 24, 1991 and the project is covered by Industries (Development and Regulation) Act, 1951 (65 of 1951), then installation of such machines will be regulated as per Industries (Development and Regulation) Act, 1951 (65 of 1951).

PART 3

POWERLOOMS

6. 6 :-

(1) Every person on installing the powerlooms machine subject to

the provisions of any Central or State law shall submit an Information Memorandum to State Government under whose territory the powerlooms has been installed and copy of Textile Commissioner, Government of India, Bombay:

Provided in case of non-small Scale Industrial Units where the location is within twenty-five kilometers from the periphery of the standard urban area limits of a city having a population often lacs or above as per 1991 census; and if these are not located within the areas designated as 'Industrial Areas' by the State Government before July 24,1991 and the project is covered by Industries (Development and Regulation) Act, 1951 (65 of 1951), then installation of such machines will be regulated as per Industries (Development and Regulation) Act, 1951(65 of 1951);

(2) The Information Memorandum as set out in Form I appended with this Order shall be made within thirty days of installation to the State Government under whose territory the powerlooms has been installed and copy of Textile Commissioner, Government of India, Bombay.

(3) The Information Memorandum shall be accompanied by a Bank Demand draft for rupees one thousand only for powerloom payable in favour of State/Union territory authority under whose territory the powerloom had been installed. The fee so paid shall be non-refundable and no fee shall be charged in the case of any Information Memorandum for installation of powerloom machine to be used for the purpose of Research and Development.

(4) On receipt of the Information Memorandum in prescribed form, the State Government shall issue an acknowledgment as set out in Form 2 appended with this Order.

7.7 :-

(1) Every person, who sells or otherwise disposes of any installed powerloom to any person or changes the location of any powerlooms subject to the prevalent Central or State law, shall inform about it to the State Government and also to the Textile Commissioner within thirty days from the date of such sale or disposal or change of location, as the case may be :

Provided that in the case of non-Small Scale Industrial Units, where the new location is within twenty kilometers from the periphery of the standard, area limits of a city having a population often lacs or

above as per 1991 census, and if there are located within the areas designated as ' Industrial Area' by the State Government before July 24,1991, and the project is covered by Industries (Development and Regulation) Act, 1951 (65 of 1951), then installation of such machine, will be regulated as per the Industries (Development and Regulation) Act, 1951(65 of 1951).

(2) No fee shall be levied for furnishing the information in the case of sale or disposal.

(3) Responsibility of furnishing the information shall be on both the transferor and the transferee.

PART 4

MISCELLANEOUS

8. 8 :-

(1) The Textile Commissioner, may from time to time issue directions in writing to any manufacturer or class of manufacturer or manufacturers generally, regarding;

(a) the classes or specifications of Cotton and woollen textiles which each manufacturer or class of manufacturer shall or shall not manufacture;

[(aa) the type or types of material which each manufacturer or class of manufacturer or manufacturers generally shall or shall not use in the production or process of yarn, cloth or other textile products. Note. 'Material' for the purpose of above clause means and includes dyes, chemicals, pigments and auxiliaries and any other materials used in the production/processing of textile product.]

(b) the maximum or minimum quantities of Cotton and woollen textiles which such manufacturer or class of manufacturers shall manufacture during such period as may be specified in the Order.

(c) the maximum price ex-factory, wholesale or retail at which, any class or specification of cotton and woollen textiles may be sold; or

(d) the principles on which and the manner in which such maximum price may be determined by a manufacturer.

Provided that in issuing any direction under this clause the Textile Commissioner shall have regard to : (i) the demand for Cotton and Woollen textiles. (ii) the needs of the general public; (iii) the

special requirement of the industry for such Cotton and Woollen textiles; (iv) the capacity of the manufacturer or class of manufacturers to manufacture of cotton and woollen textiles; and (v) the necessity to make available to the general public of cotton and woollen textiles.

(2) While issuing any direction under sub-clause (1), the Textile Commissioner may also provide that such direction shall be with reference to the quantity of cotton and woollen textiles generally during the period specified in the direction.

(3) Where, on an application made by any manufacturer or class of manufacturers or otherwise the Textile Commissioner is satisfied that any direction issued by him under this clause causes hardship or difficulty to any manufacturer or class of manufacturers he, may, by order and for reasons to be recorded in writing, direct that direction shall not apply or shall apply subject to such modifications, as may be specified in the Order, to such manufacturer or class of manufacturers.

9. 9 :-

(1) The Textile Commissioner may specify the markings to be made by a manufacturer of cotton and woollen textiles manufactured or sold by him and the time and manner of making such markings.

(2) Every marking specified by the Textile Commissioner under this clause with respect of length, width, count or weight shall be subject to the relevant limits of variations contained in the instructions, for the time being in force issued by the Central Government under S.95 of the Trade Merchandise Marks Act, 1958 (43 of 1958).

(3) Where the markings to be made and the time and manner of markings in respect of any cotton and woollen textiles have been specified under this clause

(a) the manufacturer of cotton or woollen textiles shall cause the markings to be made thereon at the time and in the manner specified;

(b) no person other than such manufacturer shall cause the markings to be made on any cotton and woollen textiles;

(c) no person other than such manufacturers shall have in his possessions or under this control any cotton and woollen textiles

which is not so marked unless it is for bonafide personal requirements;

(d) no person shall alter or deface or cause or permit to be altered or defaced any marking made on any cotton and woollen textile held by him otherwise than for his bonafide personal requirements;

(e) no person shall make on any cotton and woollen textile any marking resembling the specified markings;

(f) no person shall have in his possession or under his control otherwise than for his bonafide personal requirements any cotton and woollen textiles the markings where on is altered or defaced.

(4) Where in pursuance of sub-clause (1), markings are required to be made at one end of any piece of cloth that portion of the piece containing the said marking shall not be cut or separate from the said piece of cloth at anytime till the portion other than the portion containing the said markings is sold.

10. 10 :-

(1) The Textile Commissioner may, with a view to securing proper distribution of cotton and woollen textiles and with a view to securing compliance with the provisions of this Order, direct any manufacturer or class of manufacturers (a) to sell or deliver specified qualities of cotton and woollen textiles to specified persons; (b) not to sell or deliver cotton and woollen textiles of specified description except to specified persons and subject to such conditions as the Textile Commissioner may specify in the direction.

(2) Where any direction is issued under sub-clause (1) the manufacturer or class of manufacturers shall comply with such directions.

(3) While issuing directions under sub-clause (1) the Textile Commissioner shall have regard to (i) the requirements of various categories of persons specified in sub-clause (1), (ii) the availability of cotton and woollen textiles of different descriptions; and (iii) the requirements of any local area.

11. 11 :-

Maximum price for sale of cloth yarn or other textile products. No manufacturer or dealer shall sell, or offer to sell, any cloth or yarn and other textile products :

(i) at a price higher than the maximum price specified or determined in this behalf under Cl.8;

(ii) without marking of price as provided under sub-clause (1) of Cl. (9).

12. 12 :-

Every manufacturer of, and every dealer in yarn or cloth or other textile products shall keep such books of accounts and other records relating to his business and shall furnish such returns or information at such intervals as the Textile Commissioner may require.

13. 13 :-

(1) The Textile Commissioner may, with a view to securing compliance with this Order

(a) require any person to give such information in his possession with respect to any business carried on or by that or any other person;

(b) require any person, in writing, to furnish samples of any articles to which this Order applies;

(c) inspect or cause to be inspected any books or other documents belonging to or under the control of any person;

(d) enter and search or authorise any person to enter and search any premises and seize any article in respect of which he has reason to believe that a contravention of this Order has been committed and any other article in the premises which he has reasons to believe that such premises has been or is intended to be used in connection with such contravention.

(2) Every person who is required to give information or furnish samples or produce any books or other documents under sub-clause (1), shall comply with such requisition.

(3) The provisions of Secs. 102 and Section 103 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall apply to searches and seizures under this clause.

14. 14 :-

(1) Every manufacturer having a programme for modernisation of his unit shall submit the information about such programme

immediately to the Textile Commissioner as and when such programme is finalised and submit an Information Memorandum as set out in Form 3 appended with this order on completion of programme.

(2) No fee need accompany such an Information Memorandum.

15. 15 :-

Every processor at the commencement of processing activity shall file an Information Memorandum as set out in Form I appended with this Order to the Textile Commissioner. No fee need accompany such an-Information Memorandum.

16. 16 :-

Every manufacturer of machinery at the time of commencement of manufacturing activity shall file an Information Memorandum as set out in Form I appended with the Order to the Textile Commissioner. No fee need accompany such an Information Memorandum.

17. 17 :-

Every manufacturer of "Tops" starting commercial production shall file an Information Memorandum as set out in Form I appended with this Order to the Textile Commissioner furnishing the details of the production programme. No fee need accompany such an Information Memorandum.

18. 18 :-

Nothing in CIs. 15, 16 and 17 shall apply to the activities covered by licences issued under the Industries (Development and Regulation) Act, 1951 (65 of 1951).

19. 19 :-

(1) For the purpose of enforcing the provisions of this Order, the Textile Commissioner, may, direct the Officer-in-charge of: (i) the laboratories of the Chief Inspectorate of Textiles and Clothing, Kanpur; or (ii) the laboratories of the Inspectorate General of Stores, Calcutta, Bombay, New Delhi or Madras; or (iii) any of the laboratories established by the Textile Committee constituted under the Textiles Committee Act, 1963 (41 of 1963), to carry out or cause to be carried out such tests relating to any cloth or yarn as may be specified by the Textile Commissioner.

(2) Where any direction is issued under sub-clause (1), the Officer-

in-charge of the laboratory shall make a report under his hand to the Textile Commissioner in respect of any tests so carried out and any such report may be used as evidence in any trial for contravention of any of the provisions of this Order.

20. 20 :-

(1) The Textile Commissioner may with a view to maintaining and increasing the supply of either yarn or cloth or both or other textile products, issue directions to any person prohibiting him from dismantling his factory or any part thereof, or removing from his factory any spare part kept for maintaining the machinery of the spare part kept for maintaining the machinery to the factory in order and where such direction, are issued, the person to whom they are issued, shall comply with them.

(2) While issuing directions under sub-clause (1) the Textile Commissioner shall have regard to (i) the supply of cloth and yarn or other Textile products available in the country and the demand therefore; (ii) the financial and other resources of the factory; (iii) any other relevant circumstances for the purpose of determining whether the dismantling or removal of a factory is likely to be detrimental to the public interest.

Explanation. In this clause, the words

(a) "dismantling a factory" means removing from its position the machinery or part of the machinery of the factory, whereby such removal of the factory is rendered wholly or partly useless for its purpose, but does not include any temporary removal of the machinery or part thereof for the purposes such as adjustment, cleaning and repairs;

(b) "factory" means a factory as defined in Cl. (m) of Section 2 of the Factories Act, 1948 (63 of 1948);

(c) "machinery" has the meaning assigned to that word in Cl. (j) of Section 2 of the Factories Act, 1948 (63 of 1948).

PART 5

PROCEDURE AND PENALTY

21. 21 :-

(1) The Central Government may, by a general or special order in writing authorise any officer of the Central Government to exercise all or any powers under this Order.

(2) The State Government may, by a general or special order in writing authorise any officer of the State Government to exercise all of its powers under this Order.

22. 22 :-

(1) Any officer authorised to exercise powers delegated to him by the Central Government shall be subordinate to the Textile Commissioner for the purpose of this Order and an appeal against any of the orders passed by such officer shall be preferred to the Textile Commissioner by an aggrieved person within thirty days of the communication of the order passed by such officer.

(2) Any officer, empowered to exercise powers delegated to him by State Government shall be subordinate to the appellate authority for the purposes of this Order, and appeal against any of the orders passed by the said officer shall be preferred to the appellate authority by an aggrieved person within thirty days of the communication of the order passed by the said officer.

23. 23 :-

Any person aggrieved by an order of Textile Commissioner or appellate authority made under this Order, may prefer an appeal to the Central Government within thirty days of the date of communication of such order, and the decision of the Central Government thereon shall be final.

24. 24 :-

It shall be competent for the Central Government to issue any orders or directions to the Textile Commissioner or any of the officers exercising any of the powers or performing any of the functions under this Order, on any or all matters and the respective officers shall comply with such orders or directions of the Central Government.

25. 25 :-

No person shall, with intent to evade the provisions of this Order refuse to give any information lawfully demand from him under this Order or conceal, destroy, mutilate or deface any book or other documents kept by him in the course of his business.

26. 26 :-

Any Court trying contravention of any of provisions of this Order, may direct that any article in respect of which, it is satisfied, that the provisions of this Order have been contravened, shall be

foreited to the Government.

27. 27 :-

Violation of this Order shall be punishable under the provisions of the Essential Commodities Act, 1955 (10 of 1955).