

[For sending Feedback to M/o Textiles, Pl. clicks here...](#)

**DRAFT**

**THE COTTON TRADE (DEVELOPMENT AND REGULATION) BILL, 2012**

**A**

**BILL**

to provide for the regulation of Cotton Ginning and Pressing factories and for establishment **of** a system **for** collection of statistics on cotton distribution **as well as** for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the sixty-third year of the Republic of India as follows:-

**1. Short Title, Extent and Commencement:**

- (1) This Act may be called the Cotton Trade (Development and Regulation) Act, 2012.
- (2) It extends to the whole of India.
- (3) It comes into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions/Interpretation clauses:**

In this Act, unless the context otherwise requires, –

- a) “Bale” means any pressed package of cotton of whatever size or density;
- b) “Contract” for the purposes of this order means a ready delivery contract as defined in the Forward Contracts (Regulation) Act, 1952;
- c) “Cotton” means:-
  - (i) Ginned cotton;
  - (ii) Ginned and pressed cotton and includes both Indian and foreign cotton, but excludes cotton waste; and
  - (iii) Unginned cotton.
- d) “Cotton Waste ” means droppings, strippings, fly and other waste products of a mill using cotton as a raw material or of a **Cotton Ginning Factory** or of a **Cotton Pressing Factory**, or of a **Cotton Ginning & Pressing Factory** but does not include yarn waste;
- e) “Cotton Ginning factory” means any place where cotton is ginned that is to say, where cotton fibre (lint) is separated from seed cotton (kapas) by any process whatsoever, involving the use of steam, water or other mechanical power or electrical power;

- f) "Cotton Pressing factory" means any place where loose ginned cotton is pressed into bale by the use of steam, water or other mechanical power or electrical power;
- g) "Cotton Ginning & Pressing factory" means any place where both cotton ginning and cotton pressing processes as defined in sub-clauses (e) and (f) are carried out;
- h) "Cotton Processing factory" means a Cotton Ginning factory or a Cotton Pressing factory or a Cotton Ginning & Pressing factory;
- i) "Cotton Season" means the period beginning from 1<sup>st</sup> Oct., and ending with the 30<sup>th</sup> Sept of the following calendar year.
- j) "Trade" means buying or selling of agricultural produce and related commodities *within the country or by export*.
- k) "Trader" means the person who is engaged in trade of cotton and registered under the Sales Tax Act/Value Added Tax Act and includes domestic trader/exporter and/or multi-national trader/company;
- l) 'Manufacturer' means a manufacturer of yarn;
- m) "Market Committee" means the market committee established and constituted by the concerned State Government under the relevant Agricultural Produce Market Act for the notified market area.
- n) 'Market' means a market established and regulated under the relevant Agricultural Produce Market Act enacted by the concerned State Government for a notified market area and includes the land and buildings in the market proper and the market yard and sub-market yard.
- o) 'Occupier' means an 'Occupier' of a **Cotton Processing Factory** and includes a managing agent or lessee or any other person authorised to represent the occupier or a lessee;
- p) 'Person' includes:
  - (i) a Hindu undivided family;
  - (ii) a company;
  - (iii) a firm;
  - (iv) an association of persons or a body of individuals whether incorporated or not; and
  - (v) every artificial juridical person, not falling within any of the preceding items;
- q) 'Possession' of any goods or an article means possession of such goods or article by a person when it is held by him on his own behalf or when it is held on his behalf by another person;

- r) 'Power' means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;
- s) 'Processor' means the owner or occupier of a Cotton Ginning factory or a Cotton Pressing factory or a Cotton Ginning & Pressing factory;
- t) "Textile Commissioner" means the Textile Commissioner appointed by the Central Government and includes any Additional Textile Commissioner or Joint Textile Commissioner appointed by the Central Government in the office of the Textile Commissioner;
- u) 'Yarn' with its grammatical variations and cognate expressions, means yarn manufactured from cotton and/or its waste exclusively or in blend with other fibres, natural or man-made.
- v) "Prescribed" means prescribed by or under rules made under this Act.

### 3.

- 1) *Every cotton Ginning and Pressing Processing Factory, Trader engaged in trade of cotton and manufacture of cotton yarn shall be required to register himself in a prescribed form with the Textile Commissioner with a period of three months of enactment of rules issued for inviting registration*
- 2) *Failure to register will be punishable with a fine equivalent to Rs. 10,000/- per day for the period of processing trade or manufacture without registration or with imprisonment up to 2 years or both.*

### 4. **Filing of Information Memorandum:**

- 1) Every person having or on having established a Cotton Processing Factory shall, subject to the provision of any Central or State law, for the time being in force, file an Information Memorandum in prescribed form to the Textile Commissioner.
- 2) The Information Memorandum shall be filed within 30 days of the installation of a new Cotton Processing factory and within 120 days from the date of publication of this Act in the official Gazette by an existing Cotton Processing Factory to the Textile Commissioner.
- 3) Every person on having expanded the capacity of an existing Cotton Processing Factory shall, subject to the provisions of any Central or State law for the time being in force, file an Information Memorandum in the prescribed form to the Textile Commissioner within 30 days of such expansion.

- 4) The Information Memorandum shall be accompanied by an Account Payee Bank Demand Draft for Rs.1000/- (Rupees one thousand only) drawn in favour of the Textile Commissioner, payable at Mumbai, and the amount so paid shall be non-refundable;

Provided that no such amount shall be payable for filing an Information Memorandum by a Cotton Processing Factory established exclusively for the purpose of research and development or sampling.

- 5) On being satisfied that the Information Memorandum is complete in all respects, the Textile Commissioner shall issue an acknowledgement within 30 days.
- 6) In case of non-compliance of the sub-sections 1 to 4 of this Section, the owner or occupier of such cotton processing factories shall be punishable with a fine of Rs. 5,000/- for each day of default.

**5. Allotment of Press Mark to existing Cotton Pressing Factory or Cotton Ginning & Pressing Factory:**

- 1) Every person having a Cotton Pressing factory or a Cotton Ginning & Pressing factory shall submit an application in the prescribed form to the Textile Commissioner for obtaining a fresh Press Mark Number, within 60 days from the date of publication of this Act in the official gazette.
- 2) On being satisfied that the application is complete in all respects, the Textile Commissioner shall allot a Press Mark Number within 60 days from the date of receipt of the application complete in all respects.
- 3) The old press mark number allotted by the concerned State Government under the Ginning & Pressing Act, 1925 now repealed, shall be deemed to be valid for the purpose of this Act, and shall remain in force until the new Press Mark is allotted to the Cotton Pressing factory or the Cotton Ginning & Pressing factory by the Textile Commissioner or one year from the date of publication of this Act in the Official Gazette, whichever is earlier.
- 4) On being allotted the new Press Mark number, the Cotton Pressing factory or the Cotton Ginning & Pressing factory shall use only the new Press Mark number.
- 5) On allotment of the new Press Mark number by the Textile commissioner, the old press mark number shall be no more valid, and any use thereof, thereafter shall be a violation of this Act.

**5. Allotment of Press Mark to a New Cotton Pressing factory or Cotton Ginning & Pressing factory:**

- 1) Every person on installation of machines for a new Cotton Pressing factory or a Cotton Ginning & Pressing factory shall submit an application in the prescribed form to the Textile Commissioner for allotment of a Press Mark number **at least** 30 days before the date of commencement of commercial production.
- 2) On being satisfied that the application is complete in all respects and the applicant is found eligible, the Textile Commissioner shall allot a Press Mark number within 30 days from the date of receipt of the application complete in all respects.
- 3) No cotton bale shall be pressed by any Cotton Pressing factory or Cotton Ginning & Pressing factory until a Press Mark Number is allotted by the Textile Commissioner.

#### **6. Specification of Cotton Bales:**

- (1) The Textile Commissioner may specify standards for packing of cotton in finished/pressed bales from time to time.
- (2) Every standard for packing of cotton in finished/pressed bales prescribed by the Textile Commissioner under this Act shall be subject to the relevant standards laid down by the Bureau of Indian Standard (BIS) from time to time.
- (3) Where the standards of packing of cotton in finished/pressed bales have been prescribed, the processor shall adhere to the standards of packing of cotton in finished/pressed bales as prescribed by the Textile Commissioner.

#### **7. Marking of Bale:**

- (1) The Textile Commissioner may prescribe the marking to be made by the Cotton Pressing factory or Cotton Ginning & Pressing factory on the covering of bale pressed in the factory and the time and manner of making such marking.
- (2) Every marking prescribed by the Textile Commissioner shall be subject to the relevant standard limits of variation laid down by the BIS from time to time.
- (3) Where the marking to be made and the time and manner of marking in respect of pressed bales have been specified under this Act,
  - a) The Cotton Pressing factory or Cotton Ginning & Pressing factory shall cause the markings to be made on the pressed bales at the time and in the manner prescribed.
  - b) No person other than such Cotton Pressing factory or Cotton Ginning & Pressing factory shall cause the prescribed marking to be made on any pressed bales.

- c) No Cotton Pressing factory or Cotton Ginning & Pressing factory shall have in its possession or under its control, any pressed bale which is not so marked.
  - d) No person shall make on any pressed bale, any marking resembling the prescribed markings;
  - e) No person shall alter or deface or cause or permit to be altered or defaced the prescribed marking made on any pressed bale held by him otherwise than for his bonafide personal use.
  - f) The Cotton Pressing factory or Cotton Ginning & Pressing factory shall make necessary arrangements at its own cost for *installing electronic or magnetic tags*, as may be prescribed, on each bale by adopting permanent bales identification system.
  - g) No bale shall be removed from the Cotton Pressing factory or Cotton Ginning & Pressing factory without the prescribed marking.
- (4) If any bale is removed from the **press** house of any Cotton Pressing factory or Cotton Ginning & Pressing factory without having been marked as required by sub-section (3), the owner or occupier of the factory shall be punishable with a fine which may extend to Rupees Five thousand per bale, **thus** removed.

## **8. Maintenance of Registers & records:**

- (1) The owner or occupier of a Cotton **Ginning** factory or Cotton Ginning & Pressing factory shall maintain in his factory, a **Ginning** Register as may be prescribed by the Textile Commissioner, from time to time relating to the date-wise variety and quantity of cotton ginned in the factory **during each season**.
- (2) The owner or occupier of a Cotton **Ginning** factory or Cotton Ginning & Pressing factory shall also maintain **other Ginning Registers** as may be prescribed by the Textile Commissioner, from time to time showing the names of persons for whom and the day on which the cotton has been ginned by him including the quantity of cotton lint produced for each person in every cotton season.
- (3) The owner or occupier of a Cotton Pressing factory or a Cotton Ginning & Pressing factory shall maintain in the factory a Press Register, as may be prescribed by the Textile Commissioner, from time to time, showing the details of number of bales pressed daily in the factory, SerialNo. of each bale, and the name of the person for whom it has been pressed, for every cotton season.
- (4) Every owner or the occupier or the person in-charge of a Cotton Processing factory shall produce the Ginning Register and/or the Press Register as the case may be, for inspection whenever required to do so

before the Textile Commissioner or any officer duly authorised by him in this behalf.

- (5) Every owner or occupier or person-in-charge of a Cotton Pressing factory or a Cotton Ginning & Pressing factory shall furnish copies of the entries made in the Press Register maintained at the factory relating to any specified bale duly certified by him to be correct and true, whenever required by the Textile Commissioner or an officer duly authorised by him.
- (6) All registers required to be maintained under this Act shall be maintained cotton season-wise and shall be preserved for three years from the end of the relevant cotton season unless otherwise required in any judicial proceedings in which case, they shall be preserved till final disposal of such proceedings.
- (7) If -
  - (a) in any factory, any register, required under this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or
  - (b) any entry in any such register is proved to be false in any material particular, or
  - (c) any such register is destroyed before the expiration of the period referred to in sub-section (6),

the owner or occupier of the factory shall be punishable with a fine which may extend to Rupees Five thousand or, if he has previously been convicted of any offence under this sub-section, to Rupees Fifty thousand;

- (8) If the owner or the occupier fails to produce any register or to furnish a certified copy of any entry, when required to do so under sub-section (4 & 5) or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punishable with fine which may extend to Rupees Five thousand or, if he has previously been convicted of any offence under this sub-section, to Rupees fifty thousand.

## **9. Production Returns from Cotton Ginning Factories:**

- (1) The owner or occupier of a Cotton Ginning factory shall submit to the Textile Commissioner, within such time and in such form as may be prescribed, monthly returns showing the quantity of cotton ginned in the factory during the month and from the commencement of the season to the end of that month;
- (2) The Textile Commissioner shall compile the data from the monthly returns so submitted, on the 15<sup>th</sup> of every month, for preparation of a

statement showing the total quantity of cotton ginned in every State during the month and from the commencement of the season to the end of that month:

- (3) If default is made in submitting any return as required by sub-section(1), the owner or occupier of the factory shall be punishable with a fine which may extend to Rupees Five thousand for each default.

**10. Production Returns from Independent Cotton Pressing Factories and Composite Ginning & Pressing Factories:**

- (1) The owner or occupier of every independent Cotton Pressing factories and Composite Ginning & Pressing factories shall submit to the Textile Commissioner, within such time and in such form as may be prescribed, monthly returns showing the total number of bales of cotton pressed during the month and from the commencement of the season to the end of that month, and the approximate average net weight of the bales pressed in that month.
- (2) The Textile Commissioner shall compile the data from the monthly returns so submitted, on the 15<sup>th</sup> of every month, for preparation of a statement showing the total number of bales pressed in the State during the month and from the commencement of the season to the end of that month, and the approximate average net weight of the bales pressed in that month;
- (3) If a default is made in submitting any return as required by sub-section (1), the owner or occupier of the factory shall be punishable with fine which may extend to Rupees Five thousand for each default.

**11. Returns from Traders :**

- (1) Every trader shall submit to the Textile Commissioner, within the time and in such form prescribed, monthly returns on the quantity of cotton traded during the month and stock of cotton in his possession at the end of the month.
- (2) Traders shall furnish statistics on movement of bales ensuring that the bales purchased by them from the independent pressing factories and/or composite Ginning & Pressing factories *are marked and electronically/magnetically tagged as prescribed by the Textile Commissioner.*
- (3) The Textile Commissioner shall compile from the monthly returns so submitted, a statement showing the total stock of cotton in the possession of Traders at the end of the month.



- (4) If default is made in submitting any return as required by sub-section (1), the trader shall be punishable with a fine which may extend to Rupees Five thousand for each default.

**12. Returns from Textiles Mills:**

- (1) The owner of every textile mill shall submit to the prescribed authority, within the time and in such form prescribed, monthly returns on the cotton stock and consumption by the textile mill.
- (2) The Textile Commissioner shall compile from the monthly returns so submitted, and shall publish in such a manner as he thinks fit, a statement showing the total quantity of cotton **consumed** during the month and from the commencement of the season at the end of that month.
- (3) If default is made in submitting any return as required by sub-section (1), the textile mills shall be punishable with a fine which may extend to five thousand rupees.

**13. Liability of Officers of a Company:**

Where the person guilty of an offence under this Act is a company, every Director, Manager, Secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to be punished.

**14. Cognizance of Offences:**

No offence punishable under this Act shall be tried by any Court lower than the Magistrate of the first class.

**15. Power of the Central Government to Make Rules:**

The Central Government may, by notification in the official Gazette, make rules consistent with this Act to provide for –

- (a) the allotment of a Press Mark to be used by each independent Pressing Factory and composite Ginning & Pressing Factory for the purpose of the marking of bales;
- (b) the manner in which bales shall be marked.

The Central Government may, by notification in the official Gazette, also make rules to provide for all or any of the following matters, namely: –

- (a) The forms in which registers, records and returns are to be maintained or submitted and the inspections of records and registers;
- (b) The appointment of the authority to whom and the time within which the returns required shall be made under Sections 9, 10, 11 & 12;
- (c) The powers of inspection which may be exercised by the officers specially empowered in this behalf by Central Government;

(d) Any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

**16. Delegation of Powers by the Textile Commissioner:**

The Textile Commissioner may, by general or special order in writing, authorize any officer of the office of the Textile Commissioner to exercise, on his behalf, all or any of his functions and powers under this Act.

**17. Orders or Directions by the Central Government:**

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

**18. Power to Reject Unmarked Bales in Fulfillment of Contracts:**

- (1) No bale not so marked under the provisions of this Act shall be tenderable in fulfillment of the contract.
- (2) Any bale marked, in accordance with the provisions of this Act shall be presumed for all purposes as between the parties to a contract for the purchase of cotton to have been so marked before leaving the factory in which it was pressed.

### STATEMENT OF OBJECTS AND REASONS

The Cotton Ginning & Pressing Factories (G&P) Act, 1925 was enacted with the assent of the Governor-General on August 8, 1925 with the purpose of regulating the Cotton G&P Factories. The Act had wide ranging provisions including periodical filing of production returns, maintenance of registers, marking of bales and other rule-making powers for both the Central & State Governments for G&P Factories.

The State Governments were also empowered to make rules with regard to the forms in which registers and records as well as returns were to be maintained, appointment of competent authority under various provisions of the Act, etc.

Cotton, in the meanwhile, was brought under the purview of the Essential Commodities Act, 1955. The provisions of the Cotton Control Order, 1986, issued under the Essential Commodities Act, therefore, also applied to the G&P Sector. The Cotton Control Order covered most of the items that figured in the Cotton G&P Factories Act, viz., specification of weight and dimensions of bale, marking of bale, limits for moisture and trash content, filing of production returns etc. There have been changes in the pattern of processing, marketing and consumption of cotton since the enactment of the G&P Act, 1925. In view of the Liberalized Industrial Policy of 1991, the restrictions laid down in the Cotton G&P Act, 1925 were not required any longer. Further, as the corresponding provision of the G&P Act, 1925 to regulate working of G&P Factories was anyway contained in the Cotton Control Order, 1986, issued under the Essential Commodities Act, 1955 by virtue of cotton remaining as an essential commodity, the Government had decided to repeal the Cotton G&P Act, 1925. It was felt that the repeal would also provide a thrust and incentive to the modernisation efforts in the Cotton G&P sector to ensure quality processing of cotton and realization of the remunerative price for the services provided for. Accordingly, the Cotton G&P Factories Act, 1925 was repealed vide Notification dated 2.1.1999.

Subsequently, the Ministry of Consumer Affairs, Food & Public Distribution, (Deptt. of Consumer Affairs), Govt. of India, New Delhi had issued a Notification No. S.O.184(E) dated 12.2.2007 under which the various items which were till then declared as Essential Commodities were deleted from the Essential Commodities Act, 1955. In other words, the schedule containing Essential Commodities was pruned down i.e., removal of the textile item from the purview of Essential Commodity Act, 1955, consequent on the issue of above Notification dated 12.2.2007. Amongst the various items deleted, "raw cotton, either ginned or unginned and cotton seed" had

also been deleted from the list of Essential Commodities listed under Section 2 of the Essential Commodity Act, 1955.

In view of the removal of textile items from the purview of the Essential Commodities Act, 1955, consequent on the issue of Notification No. S.O.184(E) dated 12.2.2007, the objectives of regulating the G&P sector through the Cotton Control Order, 1986, cannot be accomplished as the Cotton Control Order, 1986 is *non-est* in the eyes of the law. In effect, there is no statutory framework regulating the activities of G&P industries such as marking of bale, maintaining registers, submission of production returns etc. As there is no statutory frame work for collecting the statistical data on pressed cotton bales from the ginning and pressing factories as well as cotton yarn production from the textile mills, it has become difficult for the Cotton Advisory Board (CAB) to draw the cotton balance sheet, which, inter-alia, assesses the production and consumption of the raw cotton in the country. As mentioned in the final report on the “Study to investigate the causes of variation between official and trade estimates of cotton production” published by Indian Agricultural Statistics Research Institute (IASRI) that the statistics generated through a Crop Cutting Experiment (CCE) under the Central Sector Scheme of Crop Estimation Survey undertaken by Directorate of Economics and Statistics (DES), Ministry of Agriculture, Government of India, suffers from experimental errors for a host of reasons Viz. the “Patwaris or Talatis” – the lowest level functionary of the revenue department at the village level are not properly trained for data collection, there is deviation in the size of CCE plots from its standard size, all the pickings are not attended and sampling design and estimation procedure not correctly followed. It is, therefore, essential to provide an alternate statutory framework for ensuring the assessment of the production of raw cotton in the country.

In view of the commercial importance of cotton crop, a very basic and important issue that has become a matter of concern among policy makers, researchers and industry is the reliability of data on cotton production and stock of cotton in the possession of various stake holders of cotton distribution system. Therefore, it is very important that the data set which provides the basis for research on various issues and policy making, is accurate and near to the actual figures. The true and correct data on production and consumption of raw cotton in the cotton distribution chain will help the farmers to avail of the facilities for borrowing from banks against their produce under the Warehousing (Development & Regulation) Act, 2007. Further, a realistic cotton economy scenario will discourage the distress sale by farmers.

The ginning being a commoditized business is subject to market fluctuations. Against the backdrop of rising cotton price, the issue that needs to be addressed is the hoarding practice of the

various stake-holders in the cotton distribution chain starting from the farmers. The trading of cotton business is volatile and the procurement from farmers and crop quality are the major issues. Further, the futures trading in cotton is leading to massive price fluctuations and supply disruptions. Since we do not have the legislative support against the price manipulators and the controlling mechanisms are also not proactive or information based, there is a need for a statistical monitoring mechanism for assessing the production and consumption of raw cotton.

Further, the cotton being primarily an agricultural produce and ultimately consumed as an industrial input in the manufacture of value chain of textiles, is transported across the country and the world. The marketable surplus of one area moves out to consumption centres through a network of middleman and traders. Such trade is not effectively reported or regulated under the existing laws of the country. The cotton is now taken as an “asset commodity”. The trade and commerce in cotton and its value-added products need to have a progressive national legislation for promotion, development and effective regulation of cotton. This will ensure well-structured supply chain essential for cotton and textile economy and facilitate better management of statistical data collection for more effective planning and policy formulation like Five Year Plan formulated by the Planning Commission.

In order to safeguard the interests of the textile industry, trade & consumers, it is expedient to introduce a new legislation Viz. “THE COTTON TRADE (DEVELOPMENT AND REGULATION) BILL, 2012”. This BILL will help in making a realistic assessment of the production and can integrate with the “The Collection of Statistics Act, 2008” to assess consumption of raw cotton in the country.

This Bill seeks to achieve the above objects.

\*\*\*\*\*