

GOVERNMENT OF KARNATAKA

NO: CI 03 CSC 2017

Karnataka Government Secretariat,
Vikasa Soudha,
Bengaluru, dated: 23-07-2018

NOTIFICATION

In exercise of the powers conferred by sub-section (1) read with sub-section(2) of Section 30 and sub-section (3) of Section 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (Act 27 of 2006), in supersession of the earlier rules issued in G.O. CI 377 CSC 2006 dated: 07/03/2007 of Commerce and & Industries Department, the Government of Karnataka hereby makes the following revised rules for facilitating the working of Micro and Small Enterprises Facilitation Council, namely:-

RULES

1. Short title and commencement:

- (i) These rules may be called "the Karnataka State Micro and Small Enterprises Facilitation Council Rules, 2018".
- (ii) They shall extend to the whole of the Karnataka State.
- (iii) They shall come into force from the date of their publication in the official Gazette of Karnataka State.

2. Definition:- (1) In these rules, unless the context otherwise requires:

- (i) "**Act**" means the Micro, Small and Medium Enterprises Development Act,2006 (Central Act 27 of 2006);
- (ii) "**Arbitration and Conciliation Act**" means the Arbitration and Conciliation Act, 1996 (Act 26 of 1996);
- (iii) "**Chairperson**:" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of section 21 of the Act;
- (iv) "**Council**" means the Micro and Small Enterprises Facilitation Council established by the Government of Karnataka Under Section-20 of the Act;
- (v) "**Government**" means the Government of Karnataka in the Department of Industries and Commerce:

- (vi) **"Institute"** means any institution or centre providing alternate dispute resolution services referred to in sub-sections (2) and (3) of section 18 of the Act.
- (vii) **"Member"** means a member of the Council;
- (viii) **"MSE"** unit means a micro or small enterprise as per the provisions of Act.
- (ix) **"Section"** means a section of the Act;
- (x) **"Schedule"** means a schedule appended to these rules
- (2) The words and expressions used and not defined, but defined in the Act shall have the meanings assigned to them in the Act.

3. Setting up of the Micro and Small Enterprises Facilitation Council:

- (i) The Government shall establish at least one Micro & Small Enterprises Facilitation Council (MSEFC). However, if the work so demand can also set up more MSEFC exercising such jurisdiction and for such area as may be specified in the Notification.
- (ii) The Government may also give secretariat assistance to MSEFC so appointed. It may also designate some official of the Secretariat to work as the secretary to the council who can be empowered by MSEFCs to issue notices or orders on behalf of the council.
- (iii) The Government may provide a legal expert to assist the Council.
- (iv) The Government may specify any fee and for processing charges paid while filing application.
- (v) The Secretariat for council may have its own seal.

4. Manner of appointment of Chairperson:

The Government shall appoint Commissioner for MSME as Chairperson of the Council keeping in view the provisions as exist in sub Clause (i) of Clause (1) of section 21 of the Act. However, another senior officer can also be designated as Director of Industries for a limited purpose of being the Chairperson of the council.

5. Manner of Appointment of Members of MSEFC:

- (i) The MSEFC shall consist of not less than three but not more than five members, including chairperson.

- (ii) Member shall be appointed as per provisions of Clause (ii), (iii) and (iv) of sub-section (1) of Section 21 of the Act. --
- (iii) A member appointed under clauses (ii),(iii) and (iv) of sub-section (1) of section 21 shall cease to be a member of the council if he or she ceases to represent the category or interest in which he or she was so appointed.
- (iv) When a member of the council dies or resigns or is deemed to have resigned or is removed from office or becomes incapable of acting as a member, the Government may appoint another person to fill that vacancy.
- (v) Any member of the council may resign from the council by tendering one month's notice in writing to the Government.
- (vi) The Government may remove any member from Office:-
 - a) if he is of unsound mind and stands so declared by a competent court; or
 - b) if he becomes bankrupt or insolvent or suspends payment to his creditors ;or
 - c) if he is convicted of any offence which is punishable under the India Penal Code (Act XLV of 1860), or
 - d) if he abstains himself/herself from three consecutive meetings of the council without the leave of the Chairperson, and in any case from five consecutive meeting; or
 - e) acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

6. Honorarium to the Members of the Council:

The remuneration, honorarium or fees and any allowances that may be paid to the members shall be at rates as approved or notified by the Government.

7. Procedure to be followed in the discharge of functions of the Council:

- (i) An aggrieved Micro or Small Enterprise [MSE] unit can move a reference to the Micro and Small Enterprises Facilitation Council having jurisdiction of the area in the format provided as Schedule-1 of these rules. The reference must have the Udyog Aadhar Memorandum (UAM) number, mobile number and email address of aggrieved MSE unit as provided in Schedule-1.

- (ii) Such references should be attached with fee or processing charges as notified by the Government vide para 3(iv) above and with an undertaking from aggrieved MSE unit that it has not moved a reference before the Civil Court on the same dispute.
- (iii) Upon receipt of references from the supplier MSE unit, the Secretariat of the Council shall enter the data in the web portal created for this purpose.
- (iv) After entering the data, acknowledgment of the receipt of reference shall be issued by the Secretariat to the applicant MSE unit through email.
- (v) The council may examine the reference at preliminary stage to check regarding the fee or competency of MSE unit to file the reference.
- (vi) In case, if the reference or the particulars entered in it are not found to the satisfaction of council, it may return the reference.
- (vii) The Council shall either itself conduct conciliation in the matter or seek the assistance of any institute for conducting the conciliation and if it decides to do so, shall refer the parties to the Institute.
- (viii) The Institute to which the issue is referred makes efforts to bring about conciliation and it shall submit its Report to the Council as soon as possible, usually within 15 days from reference to the Council.
- (ix) Where the conciliation is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for further action, i.e, arbitration or refer it to an 'institute' for the same
- (x) If the matter is referred to the institute, the institute shall arbitrate the issue as per the provisions of Arbitration and Conciliation Act, 1996 and refer the award to the Council.
- (xi) The Council after finalizing the award, or receiving the award from the Institute shall consider the case and pass appropriate final orders in the matter.

8. Meetings of the council and Quorum:

- (i) The meeting of the council shall be ordinarily held after giving seven days notice.
- (ii) However, in case of urgency, it can be called at such short notice as the Chairperson may find suitable.

- (iii) All the notices/communication of the meeting shall be informed to the petitioner including through SMS and email.
- (iv) The council shall hold regular meetings, at least once a month.
- (v) The quorum of meeting will be two in case if the number of members is three or four, and it will be three if the number of members is five.

9. Decisions of the MSEFC:

- a. Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.
- b. Every reference made under section 18 to the Micro and Small Enterprises Facilitation Council shall be decided within a period of ninety days from the date of making such a reference.
- c. The Secretariat shall upload the proceedings of every meeting of the council on the web portal created for the purpose.
- d. No application for setting aside any decree, award or other order made either by the council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such court.
- e. Notwithstanding anything contained in sub-rule (1) if authorized by the parties or all the members of the Council, questions of procedure may be decided by the Chairperson.

10. Progress Report:

- a. The council shall upload the basic information including the annual progress report of the council on the web portal created for the purpose.
- b. The Council shall provide information to the Member Secretary of the National Board for Micro, Small and Medium enterprises as in the Act in the manner and form required from time to time.

11. Repeal and Saving

The Karnataka State Micro and Small Enterprises Facilitation Council Rules, 2007 are hereby repealed, "

Provided that-

- (a) Such repeal shall not affect the previous operation of the said rules, or any notification or order made, or anything done, or any action taken thereunder;
- (b) any proceedings under the said rules, pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules, as if such proceedings were under these rules.

12. Removal of Difficulties

If any difficulty arises during the course of implementation of these Rules, the same shall be clarified by the State Government.

By order and in the name of the
Governor of Karnataka

Sd/-

(SUMATI S.)

Under Secretary to Government (SSI),
Commerce and Industries Department

To

1. The Compiler, Karnataka Gazette, Bengaluru to publish in special gazette today and supply 500 copies to the Under Secretary to Government (SSI), Commerce and Industries Department, Room No. 121, 1st floor, Vikasa Soudha, Bengaluru-1
2. The Development of Commissioner (SSI), Ministry of SSI, Government of India, 'A' Wing, 7th floor, Nirman Bhavan, New Delhi-110011
3. The Prinipal Secretary to Hon'ble Chief Minister, Government of Karnataka.
4. The Personal Secretary to Hon'ble Minister for Large and Medium Industries. Government of Karnataka, Bengaluru
5. The Personal Secretary to Hon'ble Minister for Small Scale Industries. Government of Karnataka, Bengaluru
6. The Personal Secretary to Additional Chief Secretary, Commerce and Industries Department, Vikasa Soudha, Bengaluru
7. The Personal Secretary to Secretary (MSME, Mines, Sugar), Commerce and Industries Department, Vikasa Soudha, Bengaluru
8. The Commissioner, Directorate of Large and Medium Industries, # 49, Khanija Bhavan, Race Course road, Bengaluru-1
9. The Commissioner, Directorate of Micro, Small and Medium Industries, # 49, Khanija Bhavan, Race Course road, Bengaluru-1
10. Joint Directors of all District Industries Centers (Through DIC)

Enclosure to G.O. _____ Dated: _____

SCHEDULE- 1

**FORMAT FOR REFERENCE ON DELAYED PAYMENT TO MSEFC
KARNATAKA STATE**

To
The Chairperson
Karnataka State Micro and Small Enterprises Facilitation Council.

Ref: U/s 18 of the Micro, Small & Medium Enterprises Development Act, 2006 (MSMED).

I am authorized representative of M/s _____. This firm is a Micro /small unit as per provisions of MSMED Act 2006. This unit has supplied the goods to M/s _____, but it has not been paid as per provisions of section 15 of the MSMED Act, 2006. I therefore, aggrieved with this unit, wish to file a reference. The Information pertaining to the case is as under:

1. Udyog Aadhar No: (Note-MSME unit can register Udyog Aadhaar on Udyogaadhaar.gov.in (<http://udyogaadhaar.gov.in>):
2. Date of filing application (DD//MM//YY) :

3. Details of aggrieved MSE Unit

- 3.1 Name of Authorized representative:
(Authorization to be attached)
- 3.2 Name of the Unit
- 3.3 Address (Including Pin code):
- 3.4 State:
- 3.5 District:
- 3.6 Mobile No. :
- 3.7 E-mail:
- 3.8 Type of aggrieved MSE Micro / Small

4. Name of the Respondent (Buyer):

- 4.1 Address (Including Pin code)
- 4.2 State

- 4.3 District:
- 4.4 Mobile No. :
- 4.5 E-Mail:
- 4.6 Category of Respondent (Buyer)
[CPSU-Central Public Sector Undertaking / State PSU-State
Public Sector Undertaking /.....]

5. Principal amount Payable (Rs.):

6. Interest Claimed as on

7. Fee paid, if any

7.1 Amount

7.2 Methodology

8. Documents enclosed in support of claim in respect of supply of goods supply or services rendered as referred above:

(i) .

(ii) .

(iii) .

(iv) .

I hereby declare that information given above is true to the best of my knowledge. Any information that may be further required, shall be provided immediately before the concerned authority. I further declare that I have not filed / preferred any appeal before any court on the same dispute.

Signature:

Name:

(Authorized Signatory on behalf of aggrieved MSE)

Date: