

Uttarakhand Enterprises Single Window Facilitation and Clearance Act, 2012

UTTARAKHAND

India

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Act 05 of 2013

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Uttarakhand Enterprises Single Window Facilitation and Clearance Act, 2012(Uttarakhand Act No. 05 of 2013)Last Updated 3rd March, 2020An Act for provide necessary time bound licence, permissions and sanctions to the establishment of industry in the State of Uttarakhand;Be it enacted by the Uttarakhand State Legislative Assembly 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 Uttarakhand Enterprises Single Window Facilitation and Clearance Act, 2012.(2)It shall extend to the whole of the State of Uttarakhand.(3)It shall come into force with effect from the date of notification in the official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires : -(a)"Act" means the Uttarakhand Enterprises Single Window Facilitation and Clearance Act, 2012;(b)"Government" means the State Government of Uttarakhand;(c)"Enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called engaged in the manufacture or production of goods, in any manner, or engaged in providing or rendering of any service or services;(d)"District Empowered Committee" means the District Empowered Committee constituted under section 3;(e)"State" means the State of Uttarakhand;(f)"State Empowered Committee" means the State Empowered Committee constituted under section 3;(g)"Nodal Agency" means the Nodal Agencies referred to in section 4.(h)"Investor" means any person who invests capital in any new enterprise or in an existing enterprise for expanding, modernizing or diversifying for securing income or profit or common social good;(i)"Notification" means a notification published in the Uttarakhand Gazette and the

word 'notified' shall be construed accordingly;(j)"Permission" means grant or issue of permission, no-objection certificate, clearance, allotment, consent, approval, registration, enrollment, license and the like, by any Competent Authority in connection with the setting up of an enterprise in the State of Uttarakhand and shall include all such permissions as are required under any Uttarakhand law until the enterprise commences its operation;(k)"Prescribed" means prescribed by the rules made under this Act;(l)"concession" means the facility or incentive, given by the State Government to an industrial undertaking or group of industrial undertakings;(m)"Competent Authority" means any department or agency of the Government, Local authority, statutory body, State owned Corporation, Gram Panchayat, Municipalities, or any authority or agency under administrative control of the Government which is entrusted with the powers and responsibilities to grant or issue permissions for setting up or commencement of operations of an enterprise in the State.

3. Constitution and Jurisdiction of State Empowered Committee and District Empowered Committee.

(1)The Government may by notification constitute a State Empowered Committee at the State level and District Empowered Committee for each District of the State consisting of such members as may be specified therein.(2)Jurisdiction of the State Empowered Committee and the District Empowered Committee- The class of investment for which or investment limits up to which the State Empowered Committee or a District Empowered Committee shall have jurisdiction to consider and dispose off applications for permission shall be such as may be prescribed by State Government.(3)Member of the Committee shall personally attend the meeting and in case he is unable to attend the meeting, he shall depute a senior level officer to attend the meeting with a written authorization to take appropriate decision in the meeting.(4)(a)The State Empowered Committee, or as the case may be, District Empowered Committee, shall examine the proposals for setting up any enterprise and shall take a decision and communicate its decision to the entrepreneur and the concerned departments or authorities within such time as may be prescribed by State Government.(b)The Committee shall meet at such times and in such places and shall adopt such procedure to transact its business as may be prescribed;(c)The State Empowered Committee shall examine the applications for giving concessions or grant exemption or relaxation from the provisions of any State law, take into consideration the comments of the departments, if any, hold discussions with the investors, wherever necessary and make recommendations to the Government.

4. Nodal Agency.

(1)The State Udyog Mitra cell in the Directorate of Industries shall be the Nodal Agency for the State Empowered Committee.(2)The District Industries Centers shall be the Nodal Agency for the District Empowered Committee.

5. Powers and functions of Nodal Agency.

(1)Subject to the superintendence, direction and control of the Government and the State Empowered Committee or the District Empowered Committee, as the case may be, the powers and

functions of the Nodal Agency shall be as follows: -(a)the Committee shall be the final authority in granting approvals for the projects placed before it. The approvals given by the Committee shall be binding on all the concerned departments or authorities and such departments or authorities, shall issue the required clearances within the stipulated time and subject to compliances by the entrepreneur of the provisions of the applicable Central or State Act and the rules made thereunder;(b)notwithstanding anything contained in any Uttarakhand law, the State Empowered Committee or, as the case may be, the District Empowered Committee shall, in case the Competent Authority has failed to process and dispose off such applications within the period prescribed under section 10, has the power to consider and dispose off applications for permission under Uttarakhand law. For this purpose, references to the Competent Authority in such law shall be construed as including reference to the State Empowered Committee or, as the case may be, the District Empowered Committee :Provided that where the Committee is unable to meet or otherwise unable to consider the application immediately, the Chair person of the concerned Committee may, for reasons to be recorded in writing, decide the application and report the action taken to the Committee in its next meeting and the decision of the Chairperson, subject to any decision of the committee, on such application shall for all purposes be deemed to be the decisions of concerned Committee under this section;(c)to assist the investors in completing the application forms, to acknowledge completed applications and forward such application to the concerned Competent Authorities for processing and disposal within the period specified under section 10;(d)to monitor the status of applications and place the report of the status of applications before the State Empowered Committee or the District Empowered Committee, as the case may be;(e)to place the application of the investor before the State Empowered Committee or the District Empowered Committee, as the case may be, for its decision, where the concerned Competent Authority has failed to consider and dispose off the application within the period prescribed under section 10;(f)to receive applications for relaxations, exemptions and concessions as mentioned at section 14 from the investor;(g)to seek comments of the concerned departments or authorities on the application for relaxations, exemptions and concessions as mentioned at section 14 received from the investor;(h)to submit the comments of the concerned department or authority, if any, to the State Empowered Committee within such period prescribed under section 10;(i)to submit the application for relaxations, exemptions and concessions as mentioned at section 13, received from the investor to the State Empowered Committee within such period prescribed under section 14, in case no comments are received from the concerned department authorities in the prescribed time period;(j)to provide secretarial support to the State Empowered Committee, or as the case may be, District Empowered Committee;(k)to promote environment friendly and cleaner technology and production practices;(l)the State Empowered Committee and the District Empowered Committee may be assigned such other functions as may be prescribed.(2)The State level Nodal agency shall also perform functions referred to in sub- section (1) and in addition prepare and regularly update an entrepreneurs guide providing complete particulars relating to: -(a)State and Central Industrial policies.(b)Procedure to obtain the required clearances from the department and authorities.(c)Information on industrial status and advantages existing in the State.(d)Salient features of Act and the rules made there under applicable to an industrial undertaking, and(e)Any other information useful to the entrepreneurs.

6. Combined Application form.

(1)The Government shall be competent to prescribe an application form, either in physical or electronic format, which may consist of:- (a) forms under Central laws; and (b) Existing forms or new forms in lieu of existing forms or modified forms under Uttarakhand laws. (2) All departments or authorities concerned shall accept such application form for processing and issue of required permission.

7. Self Certification.

(1) Every entrepreneur shall furnish a 'Self Certification' duly attested by Notary Public at the time of submitting Application Form to the Nodal Agency, in such form as may be prescribed, that he shall comply with the applicable provisions of the relevant laws. The undertaking shall be furnished in such form as may be prescribed by the Government. (2) The self certification furnished by the entrepreneur shall be accepted by the departments and authorities for the purpose of issuing and granting clearance and giving other benefits to the entrepreneur.

8. Procedure for Filing and Disposal of application.

(1) Application form and fee for clearance: - (a) any applicant, who desires to set up an enterprise in the State of Uttarakhand, shall apply in Combined Application Form along with a fee, as may be prescribed by the Government, to the Nodal Agency; (b) the fee, prescribed as above, shall be in addition to the fee, if any, prescribed under any Central law by any authority or department, and shall be submitted along with the form, prescribed by any such authority under that law; (c) suitable exemption from fee may be notified by the Government for applicants belonging to SC/ST/Women/Physically Handicapped categories and Micro Enterprises may also be exempted from paying the fee.

Rates for fee:--

- Small : Rs. 1000/-
- Medium : Rs. 5000/-
- Large/Heavy : Rs. 10000/-

(2) After the receipt of application for clearances, the authorized representative of the Nodal Agency shall satisfy himself that the application given by the applicant is complete in all respect. If it is so, he shall give an acknowledgment in token of the receipt of the application. (3) After an acknowledgment is given by the authorized representative of the Nodal Agency, he shall enter the application for clearances in the register of applications. The register of applications shall be checked up and certified to be correct by the Head of the Nodal Agency at the end of each working day. (4) The relevant parts of the application form shall be sent to the concerned Competent Authority within a period as prescribed under section 10. (5) The concerned Competent Authority shall process application form and communicate its decision to the Nodal Agency within the period, as prescribed under section 10. (6) The concerned department or authority shall provide comments sought by the Nodal Agency, within the period as prescribed, and, if the concerned department or

authority fails to provide comments within the aforesaid period, it shall be deemed that the concerned department or authority has no objection regarding the application for clearance.(7)Power of Competent Authority to call for additional information:- (a) before communicating its decision, if the Competent Authority deems it necessary to ask for any additional information from the applicant, it may seek the same within a period as prescribed under section-10 after the receipt of application for clearances under intimation to the Nodal Agency; (b) the additional information, sought, shall be furnished by the applicant direct to the Competent Authority under intimation to the Nodal Agency within the period, specified in this regard by the competent authority. However, such additional information would be sought once only, and not time and again in piecemeal; (c) in the case of seeking any additional information, the period, specified for communicating the decision by the competent authority to Nodal Agency, shall be counted from the date of receipt of additional information; (d) in case, it is found by the Nodal Agency that the additional information, sought by the Competent Authority, is uncalled for or the same is sought after the expiry of the period, specified under clause (a) above, then it shall be construed that the additional information was not required at all, and the period for communicating the decision in this regard, shall be reckoned from the date, the application for clearances was originally submitted; (e) the status report of the applications for clearances shall be placed before The State Empowered Committee, or as the case may be, District Empowered Committee by the respective Nodal Agencies; (f) the State Empowered Committee, or as the case may be, District Empowered Committee shall respectively, communicate its decision of approval or rejection; (g) the status report of the applications for clearances shall be monitored by The State Empowered Committee, or as the case may be, District Empowered Committee once in a month.

9. Deemed.

- Every department or authority notwithstanding anything contained in any approval other law shall issue clearance within the stipulated time limit. If the cases in which application fulfills all prescribed eligibility and terms, the concerned Departments or authorities have delayed issuing approval/clearance, in that case such clearances shall be deemed to have been issued. In such cases total transparency would be ensured by the Department.

10. Time limits for processing of application.

(1) Notwithstanding anything contained in any Uttarakhand law, Policy or Orders for the time being in force, the Government may prescribe time limit for processing and disposal of applications by the competent authority. (2) The Government may prescribe time limit for nodal agency to process the application and the comments from the competent authority, and submissions of the same to the State Empowered Committee and District Empowered Committee, as the case may be. (3) The Government may prescribe time limit for the State Empowered Committee for submitting its recommendations to the Council of Ministers.

11. Appointment of a Nodal Officer by Competent Authority.

- With a view to furnish information on any matter relating thereto, every competent authority shall appoint a Nodal Officer at its Head Office and also at the District level in each District.

12. Obligations of concerned department or authority.

(1)The Competent Authority shall consider and dispose off the application forwarded to it by the Nodal Agency within the period prescribed under section 10.(2)The concerned department or authority shall provide comments sought by the Nodal Agency under clause (g) of section 5, within the period as prescribed, and, if the concerned department or authority fails to provide comments within the aforesaid period, it shall be deemed that the concerned department or authority has no objection or suggestion regarding the requisite relaxations, exemptions and concessions as mentioned at section 14.

13. Delay in processing the applications for clearance.

(1)In case, it comes to the notice of The State Empowered Committee, or as the case may be, District Empowered Committee, that any officer or official of the concerned Competent Authority has delayed in disposing of the application for clearances without any reasonable ground or on any frivolous or malicious ground, it may pass an appropriate order in this regard for initiating departmental proceedings against such officer or official by the concerned Competent Authority and for taking disciplinary action under relevant rules.(2)After an order is passed under sub-section (1) of this section, the concerned Competent Authority shall initiate disciplinary proceedings against the delinquent officer or official within a period of fifteen days from the date of receipt of the order.

14. Grant of customized packages, concessions, exemptions or relaxations.

- The Government may, with a view to facilitate investment in the State, grant customized packages, concessions, exemptions or relaxations to any enterprise or category of enterprises in the State, subject to such conditions as it may deem fit, where the Government, or any other authority subordinate to it, is empowered under any Uttarakhand law to grant such customized packages, concessions, exemptions or relaxations.

15. Recovery of concession.

(1)In case any enterprise contravenes any of the conditions of the letter of intent or agreement, under which the concession was granted to it, the amount of the concession so granted, shall be recovered. However, no recovery under this sub-rule shall be made, unless an order in this regard is passed by the Director of Industries.(2)Before passing an order, referred to in sub-section (1) of this section, the Director of Industries shall give an opportunity of being heard to the defaulting enterprise.

16. Appeal.

- Any investor aggrieved by the orders of : -(1)The Competent Authority may appeal to the State Empowered Committee.(2)The District Empowered Committee may appeal to the State Empowered Committee.(3)The State Empowered Committee may appeal to the Government.Within thirty days from the date of the receipt by the investor of the order appealed against.

17. Penalty.

(1)Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to five thousand rupees for the first offence and for the second or subsequent offence with fine which may extend to ten thousand rupees.(2)For the delay in implementing the provisions of this Act, there would be punishment action against concerned responsible officers.

18. Offences by companies etc.

(1)Where an offence under this Act is committed by a company, the company, as well as every person in charge of and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of any director, manager secretary or other officer such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section:(a)"Company" means anybody, corporate and includes a firm or other association of individuals; and(b)"Director" in relation to a firm means a partner or proprietor in the firm.

19. Revision.

(1)Notwithstanding anything contained in any Uttarakhand law, the Government may, either suo moto or on an application made to it in this behalf, call for the record of any proceeding before any Competent Authority or the State Empowered Committee or a District Empowered Committee and examine the propriety of the proceedings or orders passed therein so as to ensure that the orders are not against public policy nor against the provisions of law and make therein such orders as it may think fit within one year of issuance of the orders being so revised in cases of rejection of the application for permissions and within three months in cases of grant of permissions.(2)The orders passed by the Government under this section shall be final and shall be binding on all concerned.

20. Protection of action taken in good faith.

- No suit, prosecution or legal proceedings shall lie against the Chairperson or other members of State Empowered Committee or District Empowered Committee or any employee of the Government Act under the direction of such committee in respect of anything which, in good faith, is done or intended to be done under this Act or any rules made thereunder.

21. Confidentiality.

- No agency or authority of the Government or, any local authority, including any functionaries thereunder, shall disclose to any other investor or to a person not duly authorized, any information forming the intellectual property of the investor without the consent of such investor :Provided that all information in respect of the terms and conditions of the investment is made in the State and the facilities, if any, provided to the investor by the Government or any of its agencies or authorities, or by any local authority, shall be notified by the Government for information of the public.

22. Transitional Provisions.

- The provisions of this Act shall apply to all investment proposals that have been under consideration of the Government or any of its agencies, authorities or undertakings on the date of commencement of this Act, if the concerned investor so opts by submitting an application to the Nodal Agency in the prescribed form and manner.

23. Act to override other laws.

- Save as otherwise provided in this Act, the provisions of this Act shall have overriding effect, notwithstanding anything inconsistent therewith contained in any other Uttarakhand law, for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law.

24. Power to remove difficulty.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty: Provided that no order under this section shall be made after the expiry of a period of two years from the commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be, after it is made, before the House of the State Legislature.

25. Power to make rules.

(1) The Government may, by notification, make rules generally for carrying out the purposes of this Act. (2) All rules made under this Act shall be laid, as soon as may be after they are so made, before

the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.