

# **Bihar Industrial Investment Promotion Act, 2016**

BIHAR

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### **Act 19 of 2016**

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Bihar Industrial Investment Promotion Act, 2016(Bihar Act No. 19 of 2016)Last Updated 10th February, 2020An Act To provide for facilitating the promotion and development of investment in Bihar and for matters connected therewith or incidental thereto.Whereas establishment of new enterprises by leveraging the abundant natural and human resources available in the state will lead to the generation of employment and improvement of the living standards of the people of the state;And Whereas, it is expedient to simplify the procedures for establishment and running of industrial, service and business units in the state in order to make the state an attractive investment destination;Be it enacted by the Legislature of the State of Bihar in the Sixty Seventh Year of the Republic of India as follows:

## **Chapter I**

### **Preliminary**

#### **1. Short title, extent and commencement.**

(1)This Act may be called the Bihar Industrial Investment Promotion Act, 2016.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such date as the State Government may, by notification, appoint.

#### **2. Definitions.**

- In this Act, unless the context otherwise requires .-(a)"Act" means the Bihar Industrial Investment Promotion Act, 2016;(b)"Clearance" means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrollments, licenses and the like, by any competent authority or authorities in connection with the setting up of an industrial undertaking in the State of Bihar and shall include all such clearances required till the industrial undertaking starts commercial production;(c)"Commissioner" means any person appointed by the State Government to act as

Industrial Development Commissioner;(d)"Common Application Form" means such electronic form as may be prescribed under the act which combines individual application forms for all clearances;(e)"Company" means anybody corporate and includes a firm or other association of individuals;(f)"Competent authority" means any department or agency of the State Government, which is entrusted with the powers and responsibilities to grant or issue clearances, and shall include Gram Panchayats, Panchayat Samitis, ZilaParishads, Municipalities, Municipal Corporations and Development Authorities;(g)"Department" means the Department of Industries of the Government of Bihar;(h)"Enterprise" shall have the same meaning as in Section 2 (e) of The Micro, Small and Medium Enterprises Development Act, 2006 [No. 27 of 2006];(i)"Incentive" means such financial and non-financial benefits provided to the investor from time to time under the Policy;(j)"Policy" means the Bihar State Industrial Investment Promotion Policy(k)"Public Authority" shall mean any office responsible for implementation of the various acts and it includes all Competent Authorities defined in section 2(e) of this Act;(l)" Secretariat " means Secretariat of State Investment Promotion Board as defined under Section 5 of this Act;(m)"State Board" means State Investment Promotion Board as defined under Section 4 of this Act;(n)"State Government" means the State Government of Bihar ;(o)"Udyog Aadhar" means such registration of industrial units as are laid down by the Union Ministry of Micro, Small and Medium Enterprises from time to time.

## **Chapter II**

# **Registration of Industrial Units, and Constitution, Powers and Functions of State Investment Promotion Board, Industrial Development Commissioner and Secretariat of State Investment Promotion Board**

### **3. Registration of Industrial Units.**

(1)Registration of an industrial unit shall be voluntary, except for those industries manufacturing items which require an industrial license under the Industries (Development & Regulation) Act, 1951.(2)However, a unit which requires clearances/assistance provided by the Union and State Governments shall file the Common Application Form (CAF) in electronic form.(3)The Micro, Small and Medium Enterprises unit shall also file the online Udyog Aadhar Memorandum after commencement of production.

### **4. Constitution of State Investment Promotion Board.**

(1)There shall be State Investment Promotion Board under the Chairmanship of the Development Commissioner in which Principal Secretaries of Industries, Finance, Commercial Taxes, Forest and Environment, Energy, Labour Resources, Urban Development & Housing and Revenue & Land Reforms will be the members. Principal Secretary Industries shall be the member secretary of the Board. The State Government shall nominate five members to this Board two of which shall be representatives from the Industry.(2)The following shall be the functions and powers of the State

Investment Promotion Board.-(a)All proposals placed before it by the Secretariat of the State Board shall be approved or appropriate decision shall be taken on the proposal;(b)The State Board shall meet atleast once a month.(c)It shall guide and advise the Department on Bihar State Industrial Investment Policy.(d)State Board in each meeting shall also review the progress in the working of the Secretariat of the State Investment Promotion Board and shall give appropriate instructions to ensure speedy processing of investment proposals.(e)The state board shall recommend action against the competent authority if the competent authority has not carried the prescribed responsibility under this act.

## **5. Secretariat of the State Investment Promotion Board.**

- Secretariat of the State Investment Promotion Board shall be constituted, which shall assist the Chairman and the Board Members in examining and appraising the investment proposals received. The Secretariat shall be bound to place the investment proposal before the State Board within a period of 30 days from the date of receipt of such proposal. The composition of the Secretariat, its functions in regard to promotion and facilitation of investment, its remuneration and incidental matters shall be as laid down in the rules.

## **6. Constitution of Secretariat of the State Investment Promotion Board.**

(1)Industrial Development Commissioner: There shall be an Industrial Development Commissioner who shall be the head of the Secretariat. Principal Secretary, Department of Industries, Government of Bihar shall ordinarily be the Industrial Development Commissioner unless otherwise decided by the State Government.(2)Constitution:The Secretariat of the State Board shall be constituted consisting of the following members:-(a)An officer of the Finance Department not below the rank of Joint Secretary,(b)An officer not below the rank of Environmental Engineer of the Bihar State Pollution Control Board,(c)An officer not below the rank of Town Planner/ Architect/ Urban Planner of the Urban Development and Housing Department(d)An officer not below the rank of Joint Labour Commissioner of the Labour Resources Department(e)An officer not below the rank of Deputy Commissioner of the Commercial Taxes Department(f)An officer not below the rank of Superintendent Engineer of the Bihar State Power Holding Corporation Limited(g)An officer not below the rank of Deputy Secretary to be deputed by Revenue and Land Reforms Department(h)An officer not below the rank of Deputy Chief Inspector of Factories of the Labour Resources Department(i)Such other officers and staffs as may be required by the Secretariat to be appointed either on deputation or contract by the State Government.(3)Functions of the Secretariat. The following shall be the functions of the Secretariat :-(a)receive, process and make available all required clearance to all new investment proposals including modernization, upgradation and expansion of existing industrial units.(b)plan, design and implement campaigns to promote Bihar as investment destination within and outside the country;(c)arrange to receive and process Common Application Forms and ensure that all clearances are given within the time limits to be prescribed under rules;(d)collect prescribed fees and deposits on behalf of the competent authority for grant of clearance and transfer the fees and deposits to the respective accounts.(e)convey such clearances to the applicant and where there are deficiencies in the application, convey such deficiencies to the applicant and get these rectified;(f)collate and furnish statistical information on investment by

sectors, product and scale, collect all relevant statistical information and provide to Union and state authorities as and when required; and(g)prepare sector and product wise information for prospective investors and disseminate through web sites, print and visual media and other means as may be directed by the Department.(4)The members of the Secretariat shall examine and recommend for clearance to the respective competent authority online.The respective competent authority shall be bound to take a decision within 30 days of receipt of such recommendation or within a time limit prescribed by the concerned acts or rules under which the clearance is being granted. The clearance shall be communicated to the secretariat online within the stipulated time which shall be made available to the investor. In case the concerned department fails to grant clearance or take a decision, the clearance would be deemed to have been granted and the Secretariat shall issue a clearance in this regard. The concerned competent authority shall comply with the clearances issued by the Secretariat and shall not have any powers to review the decision of the Secretariat.The above mode of giving clearance shall be applicable as and when a request for clearance will be received from the investor through a common application form.(5)The Commissioner shall have powers to direct a public authority to carry out investigation, enquiry and seek a report on issues related to clearance under the various acts required for investment proposals within a specified time limit. The Commissioner shall have powers to give directions to public authority to take decisions within a prescribed time limit.

## **7. Financial Incentives to eligible industrial units.**

- The Secretariat shall ensure the timely sanction and disbursement of financial incentives to eligible industrial units in terms of the Policy as notified from time to time. The investors shall apply for all financial incentives through the Common Application Form to the Secretariat. The Secretariat shall process the application for financial incentives. The competent authority for sanction and the time frame within which it shall be sanctioned shall be prescribed in rules.

## **Chapter III**

### **Miscellaneous**

## **8. Self-certification.**

(1)Application for clearances and any accompanying document may be self-certified by the applicant or authorized person.(2)Clearances will be issued on the basis of self-certification, and verification, where necessary, shall be conducted after the issue of such clearances.(3)The State Government may also by a notification indicate those provisions under which where self-declaration shall be deemed to be a sufficient document for compliance.(4)If on verification, the self-certification is found to be incorrect, clearances issued on the basis of such self-certification shall be cancelled and the person/s responsible for false self-certification shall be liable for prosecution under Section 197 of the Indian Penal Code.

## **9. Exemption.**

- The State Government may, by a notification exempt any clearance from any of the provision of the Act.

## **10. Authorization.**

- The State Government may, by a notification authorize the secretariat for grant of any clearance required for investment.

## **11. Penalty.**

(1) Any public authority who fails to comply with the directions of the State Board and the Secretariat within the prescribed time shall on conviction be punishable with a fine which may extend to ten thousand rupees for the first offence and for second or the subsequent offence may extend to fifty thousand rupees. (2) Where an offence under this Act is committed by a Public Authority, if the Commissioner is satisfied that the authority has failed to discharge the duties assigned to him under this Act, without assigning sufficient and reasonable cause, may recommend action against him under the service rules applicable to him.

## **12. Rights of the Investor.**

- Notwithstanding anything contained in section 3(2) of this act, every investor is free to apply directly to the relevant Statutory Authority for obtaining necessary clearances for establishing and commencing operation of their enterprises.

## **13. Integrated clearance system.**

- An online system of giving clearance and approval shall be developed. The Common Application Form and the supporting documents shall be received online and the clearance shall be communicated online.

## **14. Power to give directions.**

- The State Government may, from time to time, issue to the State Board, Secretariat and Public Authority such general or special directions related to the policy which is not inconsistent with the provisions of this act and is necessary or expedient for the purpose of carrying out the objects of this Act and the concerned Board, Secretariat and Public Authority shall be bound to follow and act upon such directions.

## **15. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is done or intended to be done in good faith under this Act or any rules made there under.

## **16. Power to make rules.**

(1)The State Government may by notification make rules for carrying out all or any of the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, provisions may be prescribed in such rules for all or any of the following matters, namely:(a)the process for approving investment proposals by the State Board;(b)the process of working of the Secretariat and the determination of staff strength, method of recruitment and service conditions including disciplinary and appeal powers of the commissioner;(c)the form and mode of filing of the Common Application Form and its processing by the Secretariat;(d)the responsibilities of the Secretariat and the time frame for delivery of services;(e)the manner and periodicity of verification by inspecting agencies under various Statutes and the penalties to be imposed for false and inaccurate self-declaration; and(f)online monitoring system and issue of clearances/approvals.(3)Every rule made under this Act shall be laid before the State Legislature by the State Government.

## **17. Repeal and Saving.**

(1)The Bihar Single Window Clearance Act, 2006 (Bihar Act 9 of 2006) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken or purported to have done or taken under the said Act shall, be deemed to have been done or taken under this Act as if this Act was in force on such day on which such thing was done or such action was taken.