

The M.P. State Aid to Industries Rules, 1959

MADHYA PRADESH

India

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The M.P. State Aid to Industries Rules, 1959 Published vide Notification No. 11263-4407-11-A, M.P. Rajpatra, (Asadharan), dated 21-8-1959 In exercise of the powers conferred by Section 30 of the Madhya Pradesh State Aid to Industries Act, 1958 (No. 20 of 1958), the State Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely

1.

These rules may be called the Madhya Pradesh State Aid to Industries Rules, 1959.

2.

In these rules, -(a) The "Act" means the Madhya Pradesh State Aid to Industries Act, 1958 (No. 20 of 1958); (b) "Form" means a form appended to these rules; (c) "Section" means section of the Act.

3.

On requisition from the State Government, for election of member or members of the Legislative Assembly on the State Aid to Industries Committee, under clause (b) of sub-section (1) of Section 4 of the Act, the election shall be conducted in such manner and according to such regulations as may be made by the speaker of the Legislative Assembly in this behalf. The names of the members elected shall be communicated to the State Government as soon as may be after the election is over.

4.

The following shall be the procedure for the conduct of the proceedings of the Committee :- (1) The Chairman shall make arrangements with respect to the place, day, hour, notice, management and generally with respect to the transaction of business of the Committee, as he may think fit. If there is

not sufficient business for holding a meeting, he may in his discretion ascertain the opinion of the members by circulation of papers to avoid delay and expense. The majority of opinions thus obtained shall be deemed to be the decision of the Committee :Provided that total number of members expressing opinion is not less than the number forming the quorum under sub-rule (3).(2)The Chairman may, whenever he thinks fit, and shall upon the written request of not less than one-third of the total number of members of the Committee, call a special meeting of the Committee.(3)One-third of the total number of members of the Committee holding office for the time being shall form a quorum and no business shall be transacted unless a quorum is present(4)Every meeting of the Committee shall be presided over by the Chairman, if present, and during his absence by such one of the members present as may be chosen by the members present in the meeting.(5)All questions shall be decided by a majority of votes of the members present, the Chairman having a second or casting vote, in case of equality of votes.(6)If a poll be demanded, the names of the members voting and the nature of their votes shall be recorded by the Chairman of the meeting.(7)(a)The names of the members present and the minutes of the proceedings at such meeting, shall be kept by the Secretary in a book to be provided for the purpose, which shall be signed as soon as practicable, by the Chairman of such meeting and shall be open to inspection by any member during office hours.(b)Details relating to matters decided by the Chairman by circulation of papers under sub-rule (1) shall be recorded by the Secretary over the Chairman's signature in the minutes book.(8)At least 10 days' notice of all meetings with the agenda shall be given to every member. The accidental failure of service of such notice on any member shall not invalidate the proceedings of any meeting :Provided that for special meetings referred to in sub-rule (2), no such notice shall be necessary.(b)No business except as stated in the agenda shall be transacted at any meeting except with the permission of the Chairman or the members presiding over the meeting of the Committee, as the case may be.

5.

The Director shall cause to be maintained a register in Form I for all loans granted and another register in Form II for all other forms of State Aid granted under the Act.

6.

(1)The State Government shall in each case on the recommendation of the Committee, determine a period not exceeding 20 years for the guarantee of a minimum return under clauses (c), (d) and (e) of Section 9 of the Act.(2)At the expiration of the period of guarantee fixed under sub-rule (1) the State Government may, on a recommendation in this behalf, by the Committee, grant an extension of the period of guarantee for a period not exceeding five years.

7.

(1)Every application for aid under the Act shall be addressed to the Director and shall be presented to such officer as may be notified by the Director in this behalf from time to time. It shall be made in the appropriate Form in Annexure annexed to these rules and shall be signed and verified in accordance with Order VI, Rule 15 of the Code of Civil Procedure, 1908 (V of 1908).(2)The applicant

making an application under sub-rule (1) shall furnish to the satisfaction of the Director or the officer scrutinising the application such other information as the Director or such officer may require.(3)A notice under sub-section (3) of Section 12 shall be in Form III and shall be published in at least two consecutive issues of the Madhya Pradesh Rajpatra and may also be published in such other local newspapers as the State Government may deem necessary to secure its wide publicity. At least a period of one month shall be allowed to elapse from the date of publication of the notice in the State Gazette (first insertion) before further action is taken to finalise the grant of loan.

8.

(1)The value of the assets of an industry shall, so far as they do not consist of money, be taken to be-(a)in the case of fixed assets acquired by purchase for cash, such as land, buildings, leasehold, railway siding, plant and machinery, development of property, trade-marks and designs, etc., the price at which these assets were acquired subject to proper deductions for wear and tear; such deductions shall be calculated in the case of buildings, machinery and plant at the rates fixed as allowable depreciations under Section 10 (2) of the Indian Income-tax Act, 1922; appreciable increase or decrease in the market value of the site, machinery and buildings may also be taken into consideration;(b)in the case of fixed assets acquired by purchase otherwise than for cash-the value of the consideration at the time the assets were acquired; provided that any appreciable increase or decrease in the market value of such assets may also be taken into consideration;(c)in the case of stores, spare gear or tools not taken into use the close price or price of replacement whichever is less;(d)in the case of stores, spare gear and tools which have been used but are still in stock, the cost price less such deduction for wear and tear, as may be considered reasonable by the Director, or any officer duly authorised by him in this behalf;(e)in the case of stock in trade, if of manufactured stock, the cost of manufactured stock or the market selling price, whichever is less; if purchased stock, the cost price or price of replacement, whichever is less;(f)in the case of book-debts, the nominal amount of those debts; but the debts shall be classed as good and doubtful and no account shall be taken of doubtful debts; all debts which shall have been due and recoverable for over two years, shall be classed as doubtful;(g)in the case of investments the market value of those investments on the day on which the valuation is made;(h)in the case of any other assets which have not been acquired by purchase, the value of the assets at that time when they became assets of the business subject to such deduction for wear and tear, as may be considered reasonable by the Director or any officer duly authorised by him in this behalf :Provided that no value shall be placed upon the good-will, patents or secret processes of any business.(2)The value of the assets, so far as they consist of money, shall be all cash, with bankers or on land, the value of cash in other countries being taken at the rate of exchange ruling on the day on which the valuation is made.(3)The value of the additional assets that will be created by the application of the loan granted by the State Government, shall be money expended on the acquisition of immovable property and machinery of a permanent nature and on the liquidation of the encumbrances on existing fixed assets which contribute to the enhancement of the capital value of the concern.(4)The assets having been valued as above, all debts and liabilities of the business shall be deducted other than accumulated profits and reserves, and the balance shall represent the net value of the surplus of assets and shall be value of the business for the purposes of the Act.

9.

The valuation of the assets under sub-section (1) of Section 15 shall be made-(a)in case of land and building and other immovable property, excluding plant and machinery, by the Collector of the district in which the property is located, or by such officer as may be authorised by the Collector in this behalf;(h)in case of plant and machinery and other assets not covered under clause (a), by the Director or by such officer, as may be directed or authorised by the Director in this behalf :Provided that in cases where the amount of State Aid to be granted does not exceed Rs. 10,000/- a solvency certificate issued by a competent authority may be deemed to be the valuation of assets for the purposes of grant of loan.(2)In the valuation of assets under sub-rule (1) the decision of the Director as to which assets may be valued by the Collector shall be final and binding.

10.

If the Committee recommends the grant of State Aid under the Act, the Director shall forward such recommendation to the Government for sanctioning the loan. On receipt of sanction of the Government, the Director shall inform the applicant of the decision of the Government and shall call upon him to execute the necessary legal documents and to get them registered wherever registration is compulsory under the Act and Rules in force in this behalf. The expenses for the execution and registration of such documents shall be borne by the grantee. The Director shall then proceed to draw and disburse the amount of aid in accordance with such accounts procedure as may be in vogue.

11.

Interest at the rate fixed under Section 20 of the Act shall accrue from the date of disbursement of the loan. If the loan is disbursed in instalments interest on each instalment shall run from the date of disbursement of such instalment.

12.

Whenever a loan is granted under this Act to a person in respect of any industrial business or enterprise, and is secured by mortgage or floating charge upon the assets of such business or enterprise, the grantee of the loan shall be bound to put up at his place or places of his business or enterprise, a prominent sign-post containing the name of such business or enterprise, with the addition of the words 'State Aided' within brackets. Such notice when so displayed shall be deemed to signify that the business or enterprise is in receipt of a loan secured as provided by Section 16.

13.

In respect of every property to be mortgaged or covered by a floating charge in connection with any State Aid to be granted under the Act, the grantee shall submit a solvency certificate in original issued by a competent authority in proof of the ownership of the said property and of its being free

from any encumbrances.

14.

Every Aid granted under the Act shall be applied to the purpose for which it is granted. If at any time it is proved to the satisfaction of the Government or of the authority sanctioning the State Aid that the aid given under the Act or any part thereof has been misapplied, the whole unpaid balance of the Aid given under the Act with interest chargeable thereon and penalty therefor, and costs incurred, if any, shall become immediately payable and shall be recovered in the manner laid down in sub-section (1) of Section 27 of the Act.

15.

(1)The recipient of any State Aid shall maintain or cause to be maintained in good and substantial repair the premises, buildings, machinery, plant and all other properties mortgaged to the State Government as security for the State Aid and the plant, machinery and other properties, movable or immovable purchased out of the State Aid. He shall unless exempted by the authority sanctioning the said aid, insure the mortgaged property against loss or damage by fire and shall duly and punctually pay the premia payable in respect thereof as and when they become due and payable. In the event of failure to carry out any repairs or renewal of the insurance or to pay the premium when due, the Director of Industries or any officer duly authorised by him in this behalf may himself do so or cause this to be done and incur the expenditure necessary therefore. The expenditure so incurred shall be recovered in accordance with the provision of sub-section (1) of Section 27.(2)It shall be open to the Director or the authority sanctioning the State Aid, to insist on the recipients of any Aid, effecting the insurance before the actual grant of the State Aid.(3)The recipient of the State Aid shall obtain prior approval of the Director or the authority sanctioning the loan with regard to the Company with which the insurance is to be effected and the amount to be secured by such insurance.

16.

The recipient of any State Aid, under the Act shall, be bound to permit the Director, or any person deputed or authorised by him by general or special order in writing or any other person authorised in this behalf by the State Government, to inspect the premises, buildings, plant, stock-in-hand, cash in hand, etc., and accounts of the industrial business or enterprise in respect of which the Aid has been granted and to grant" facilities for all or any of these purposes.

17.

(1)The accounts of any industrial business or enterprise in respect of which State Aid has been granted, shall be examined and audited at least once every year by an Auditor approved by the State Government and it shall be the duty of such Auditor to outline the method in which the books of the particular industrial business or enterprise shall be kept. If the books of any such industrial business

or enterprise are not kept in the manner outlined by the Auditor, the Director may at the cost of such industrial business or enterprise and for such period as he may consider necessary, appoint an Auditor, Accountant or other officer for the preparation of such books. The expenditure so incurred shall be recoverable in accordance with the provisions of sub-section (1) of Section 27.(2)The accounts of any industrial business or enterprise which is in receipt of State Aid, shall also be subject to examination, on his own motion by the Accountant-General of Madhya Pradesh, the extent and manner of actual audit or scrutiny of the accounts being at the discretion of the Accountant-General, Madhya Pradesh.

18.

A return shall be made once in every year certified by such Auditor and the return shall show-(a)a full and complete statement of the assets and liabilities of the business;(b)a valuation of the assets under Rule 8; and(c)a working or manufacturing account showing-(i)the out-turn of the industrial business or enterprise with the cost per unit of such out turn; and(ii)the profit or the loss on the marketing of the products.

19.

The provision of the sub-rule (1) of Rule 17 and of Rule 18 shall not apply in case of small scale industry in receipt of an Aid not exceeding Rs. 50,000, provided that such accounts as would be adequate to verify the proper utilisation of the State Aid are maintained by the recipient of the Aid and he submits certificate of utilisation with complete details thereof within one month of the expiry of the period fixed for such utilisation. The recipient of State Aid shall also submit such periodical returns as the Director or the sanctioning authority may require from time to time. The Director or the authority sanctioning the State Aid may also from time to time direct as to how such accounts should be maintained and the recipient of such Aid shall have to comply with such directions.

20.

Every guarantee under clauses (b) and (e) of Section 9 of the Act shall be for a fixed period. At the expiration of such period, if the cash credit or overdraft is not cleared or the fixed advance not repaid, and if the bank with which the guarantee has been made, so desires, the amount outstanding, both of the principal and the interest, shall be immediately recoverable. In case of debentures every guarantee shall be secured by a mortgage or a floating charge, or both mortgage and a floating charge, upon the whole of the assets of the industry subject to any encumbrances existing at the time when such guarantee is given. The condition of the guarantee of principal and interest on debentures shall be that an amount equal to the sum paid, or part thereof, as may be determined by the State Government, shall be repaid to the State Government at the close of such term of years as may be fixed by the State Government in this behalf if within the time the State Government is satisfied that the industry has been making reasonable profits.

21.

[(1) Loans shall be recovered by fixed, equal and annual instalments of principal. Interest as may be due shall be recovered along with the instalment of principal.] [Substituted by Notification No. 7333-2224-XI-A, dated 1-10-1965.](2)The first instalment shall be made repayable not earlier than-(i)two years in the case of small scale industry, and(ii)one year in the case of any other industry from the date of the actual advance of the loan or when the loan is advanced in instalments from the date of actual payments of the last instalment:[Provided that the interest accruing at the end of first year shall be repayable after the close of that year.] [Inserted by Notification No. 7333-2224-XI-A, dated 1-10-1965.]

22.

(1)Nothing in Rule 21 shall debar a borrower from repaying at any time a larger sum than the amount of an annual instalment or from discharging the whole loan in a single payment. If any sum in excess of the amount of any instalment be paid, it shall be credited in reduction of the principal, the number of future instalments being, if necessary, reduced, but no postponement of subsequent instalments shall be permitted nor shall any alteration in the amount of subsequent instalments be allowed except in the final instalment if such alteration is necessary to adjust the balance due.(2)If the amount due for any instalment is paid before the date fixed for the payment thereof, such payment shall not entitle the borrower to any concession and it shall be treated for all purposes as having been made on the said date :[Provided that in cases where instalments are paid in advance of due dates by the loanee, interest will be charged only for such period and in respect of such amount of the loan as remains outstanding against the loanee.] [Inserted by Notification No. 14700-3583-XI-A, dated 4-10-1963.]

23.

All repayments of loan and interest under these rules shall be made at the nearest Government Treasury to the credit of the State Government.

24.

On every instalment of principal or of interest which is not paid on the date fixed for payment, a penalty at the rate of 8% per annum shall be levied from the said date :Provided that the State Government may, in cases in which it finds sufficient reasons for doing so, remit such penalties in whole or in part subject to the payment of interim interest during the moratorium period.

25.

The repayment of the annual instalment may be suspended by the authority sanctioning the loan whenever from causes beyond the borrower's control such payment of the instalment becomes unduly burdensome. Whenever the payment of an instalment is thus suspended, all the remaining

instalments due on the loan, may be so postponed by the sanctioning authority as may be considered necessary by him in the circumstances of the cases :Provided that nothing in these rule shall enable the authority sanctioning the loan, to make any order which will have the effect of extending the period of repayment to over 10 years or the State Government to extend the period over 20 years except in the manner specified in sub-section (2) of Section 20 :Provided also that the suspension of repayment shall not carry with it the suspension of interest except under the orders of the State Government and in exceptional circumstances.

26.

In cases in which the conditions under which loans or grants have been made, have not been fulfilled; no profit shall be appropriated without the sanction of the State Government.

27.

In the case of any industry' to which Section 28 of the Act applies,-(1)No loan shall be granted and no guarantee of cash credit, over-draft or fixed advance with a bank, shall be given unless the value of the security offered is at least equal to 1-1/2 times of the amount of loan except in cases covered by clauses (d) and (e) of sub-rule (2).(2)Every loan, guarantee of cash credit, overdraft or fixed advance with a bank shall be secured by-(a)a mortgage or a floating charge upon the whole assets of the industry; or(b)a mortgage or a floating charge upon the other assets belonging to the applicant; or(c)a mortgage or a floating charge upon the assets of surety or sureties of the applicant; or(d)[the personal security of the applicant for loans not exceeding rupees two thousand in the case of handicraft artisan and rupees one thousand in the case of others; or] [Substituted by Notification No. 17113-6786-XI-B, dated 16-11-1966.](e)the joint personal security of the applicant and of one or more persons having landed property in Madhya Pradesh in cases of loans exceeding Rs. 1,000 but not exceeding Rs. 5,000 :Provided that in case of loan exceeding Rs. 2,500 at least two such sureties shall be necessary :Provided further that in cases where personal security of one surety is taken in cases of loans not exceeding Rs. 2,500 the surety should be solvent at least to the extent of 1-1/2 times of the amount of loan to be sanctioned and in case where two or more sureties are taken, they should be each solvent separately at least to the extent of the amount of loan; or(f)a combination of the forms of the security mentioned in clauses (a) to (e).(3)In the case of a co-operative society of workers engaged in any industry, there need not be any security for loans towards the share capital the condition being that the amount of the loan paid to the societies shall be kept with a co-operative bank or joint stock bank and shall be operated upon jointly by the nominee or the society and an official [x x x] [Omitted by Notification No. 7333-2224-XI-A, dated 1-10-1965.] nominated in this behalf by the sanctioning authority.(4)Loans to Co-operative Societies of workers for purposes other than share capital may be granted without any security if the sanctioning authority is convinced of the soundness of the society and the integrity of the office-bearer, such loan being subject to such conditions as the sanctioning authority may deem proper, in the interest of the safety of the loan :Provided that loans to be granted to any Co-operative Society of workers may extend up to the limit of credit laid down by the Society in its bye-laws after allowing for such credit as might have already been obtained or covered by the Society against the limit of its credit.

28.

No loan shall be disbursed and guarantee of cash credit, overdraft or fixed advance with a bank, shall be given to an applicant unless he and his surety or sureties, if any, execute the necessary bond to the satisfaction of the authority sanctioning the loan.

29.

The provisions of rules made under clauses (c), (f), (h), (j) and (k) of sub-section (2) of Section 30 of the Act, shall apply to loans and guarantees of the cash credit, over- draft or fixed advance with a bank.

30.

For the purposes of these rules, "small scale industries" may be classified as follows :-(a)industries the management of which is carried on a proprietary basis by an individual or group of individuals;(b)industries the management of which is carried on by a Co-Operative Association of a number of individual units;(c)industries the management of which is carried on by a Co-operative Society of workers engaged in any industry.

31.

Subject to the provisions of sub-section (1) of Section 15 of the Act, the amount of loan granted to a small scale industry shall :-(i)where such industry falls under clause (a) or (b) of Rule 30 not exceed 3 times the amount put in or agreed to be put in before disbursement of the amount of loan by the applicant himself whether for fixed and/or working capital, subject to a maximum of Rs. 50,000 in each individual case :[Provided that the above condition shall not apply to industries run by trainees trained in training centres or institutions run by Government;] [Inserted by Notification No. 11489-3123-XI-A, dated 14-9-1962.](ii)where such industry falls under clause (c) of Rule 30 not exceed Rs. Two lacs :Provided that no loan shall be granted to such an industry unless two-third of the members of a co-operative society are actually producers, workers, artisans, craftsmen, etc.

32.

Loans for share capital to Co-operative Societies shall be returnable within a period of 5 years and all other loans to small scale industries shall be returnable within a period of 10 years.

33.

In the case of any industry which has been in receipt of State Aid under the Act, any grant of further State Aid shall be subject to the condition of the Industry having abided by the terms and conditions attached to the previous loan.

34.

The payment of travelling and daily allowance to the non-official members of the State Aid to Industries Committee when attending a meeting of the said Committee shall be regulated in accordance with the orders of the Government issued vide Finance Department Memo No. 1540-CR-871-IV-R-II, dated the 4th July, 1958 or any subsequent orders that may be issued by the State Government in this behalf.

35.

The Central Provinces and Berar State Aid to Industries Rules, 1934 and the Madhya Bharat State Aid to Industries Rules, 1952 and any other rules in force on the subject in all the regions of the State of Madhya Pradesh are hereby repealed :Provided that anything done or any action taken under the rules, so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.