

Jammu and Kashmir Micro and Small Enterprises Facilitation Council Rules, 2017

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-MICRO-AND-SMALL-ENTERPRISES-FACILITATION COUNCIL RULES, 2017

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Jammu and Kashmir Micro and Small Enterprises Facilitation Council Rules, 2017Published vide Notification No. SRO-251, Srinagar, dated 19th June, 2017SRO-251. - In exercise of the powers conferred by section 30 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), the Government of Jammu and Kashmir hereby, make the following rules, namely :-

1. Short title and commencement.

(1)These rules may be called the Jammu and Kashmir Micro and Small Enterprises Facilitation Council Rules, 2017.(2)They shall extend to the whole of the Jammu and Kashmir.(3)They shall come into force from the date of their publication in the Official Gazette of Jammu and Kashmir.

2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006, Central Act) ;(b)"Arbitration and Conciliation Act" means the Jammu and Kashmir Arbitration and Conciliation Act, 1997 (XXV of 1997) ;(c)"Council" means the Jammu and Kashmir Micro and Small Enterprises Facilitation Council, established by the Government of Jammu and Kashmir under section 20 of the Act ;(d)"Chairperson" means the Chairperson of the Council ;(e)"Government" means the Government of the Jammu and Kashmir, in the Department of Industries and Commerce ;(f)"Institute" means any institution or centre providing Alternate Dispute Resolutions Service referred to in sub-section (2) and (3) of section 18 of the Act ;(g)"Member" means a member of the Council ;(h)"MSE" unit means a Micro or Small

Enterprise as per the provisions of the Act ;(i)"Section" means a section of the Act ;(j)The words and expressions used and not defined, shall have the meanings as assigned to them in the Micro, Small and Medium Enterprises Development Act, 2006.

3. Setting up of the Council(s).

(1)The Government shall establish at least one Micro and Small Enterprises Facilitation Council (MSEFC). However, if the work so demands, Government may set up more Councils exercising such jurisdiction and for such area(s) as may be specified in the notification.(2)Directorates of Industries and Commerce of each division would provide secretariat assistance to the respective Council. Joint/Deputy Director, Industries and Commerce of each division shall work as Secretary to the Council, who can be empowered by the MSEFCs to issue notices or orders on behalf of the Council.(3)The Law Officer of the respective Directorate of Industries and Commerce shall assist the Council in legal matters/issues.(4)The Government shall specify fee and/or processing charges to be paid while filing application to the Council.(5)The Secretariat for Council shall have its own seal.

4. Chairperson of the Council.

- The Government shall appoint Director of Industries and Commerce Department, Kashmir/Jammu or any other officer not below the rank of Director as Chairperson of the Council.

5. Members of the Council.

(1)The MSEFC shall consist of not less than 3 but not more than 5 members, including the Chairperson.(2)Members shall be appointed as per provisions of clauses (ii), (iii) and (iv) of sub-section (1) of section 21 of the Act.(3)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.(4)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.(5)Any member of the Council may resign from the Council by tendering his resignation with one month's notice in writing to the Government.(6)The Government shall remove any member from office,-(a)if he/she is of unsound mind and stands so declared by a competent court ; or(b)if he/she becomes bankrupt or insolvent or suspends payment to his creditors ; or(c)if he/she is convicted of any offence which is punishable under the Ranbir Penal Code, Svt. 1989 (Act No. XII of 1989) ; or(d)if he/she abstains himself/herself from three consecutive meetings of the Council without leave of the Chairperson, and in any case from five consecutive meetings ;(e)if he/she acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his/her 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/notified by the Government, if any.

7. Objective.

- To provide a structured mechanism for recovery of dues of a supplier MSE from any buyer firm or MSE and to deal with the issue of delayed payments as prescribed in Chapter V of the Act.

8. Procedure to be followed in the discharge of functions of the Council.

(1)An aggrieved MSE unit can move a reference to the Council having jurisdiction of the area in the format provided in Schedule-I to these rules. The reference must have the Udyog Aadhaar Memorandum (UAM) provided in Schedule-I.(2)Such references should be attached with fee or processing charges as notified by the Government as per rule 3(4) above and with an undertaking from aggrieved MSE unit that it has not moved a reference before any Civil Court regarding the same dispute.(3)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.(4)After entering the data, acknowledgement of the receipt of reference shall be issued by the Secretariat to the applicant MSE unit through registered post including e-mail & SMS.(5)The Council shall examine the reference at preliminary stage to check the fee or competency of MSE unit to file the reference.(6)In case, the reference or the particulars entered in it are not found to the satisfaction of Council, it may return the reference.(7)The Council shall either itself conduct conciliation in the matter or seek the assistance of any institute for conducting the same and if it decides to do so, shall refer the parties to the institute.(8)The institute to which the issue is referred shall make efforts to bring about conciliation between the parties and shall submit its report to the Council as soon as possible, preferably within a period of 15 days from the date of reference.(9)Where the conciliation between the parties does not lead to settlement of the dispute, the Council shall either itself take up the dispute for further action, i. e. arbitration or refer it to an "Institute" for the same in terms of Jammu and Kashmir Arbitration and Conciliation Act, 1997.(10)If the matter is referred for arbitration, the institute shall arbitrate the issue as per the provisions of Jammu and Kashmir Arbitration and Conciliation Act, 1997 and refer the award to the Council.(11)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.

9. Meetings of the Council and Quorum.

(1)The meeting of the Council shall ordinarily be held after giving seven days prior notice.(2)In case of urgency, it can be called at such short notice as the Chairperson may find suitable.(3)All the notices/communications for the meeting shall be communicated to the petitioner through registered post including SMS and email.(4)The Council shall hold regular meetings, at least once a month, when cases are pending before it.(5)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.

10. Decisions of the Micro and Small Enterprises Facilitation Council.

- Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.(2)Every reference made under section 18 of the Act to the Micro, Small and Medium Enterprises Facilitation Council shall be decided within a period of ninety (90) days from the date of making such a reference.(3)The Secretariat shall upload the proceedings of every meeting of the Council on the web portal created for the purpose.(4)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 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.

11. Progress report.

(1)The Council shall upload the basic information including the annual progress report of the Council on the web portal created for the purpose.(2)The Council shall provide information to the Member-Secretary of the National Board for Micro, Small and Medium Enterprises as defined in the Act in the manner and form required from time to time.

12. Removal of difficulties.

- All the proceedings initiated as per earlier rules shall continue unabated. If any difficulty arises during the course of implementation of these rules, the same shall be clarified by the Government.

13. Repeal and saving.

- The Jammu and Kashmir State Micro and Small Enterprises Facilitation Council Rules, 2008 are hereby repealed.(2)Notwithstanding such repeal, 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.

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(SRO____ of 2017)Format to reference on delayed payment to MSEFC.....ToThe Chairperson, Micro and Small Enterprises Facilitation Council.....Reference :- U/s 18 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.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 Aadhaar No. (Note-MSME unit can register Udyog Aadhaar on udyogaadhaar.gov.in (<http://udyogaadhaar.gov.in>):

2. Date of Filing Application (DD/MM/YYYY) :

3. Details of aggrieved MSE Unit :

3.1Name of authorized representative (authorization to be attached).3.2Name of the unit
:3.3Address (including PIN Code) :3.4State :3.5District :3.6Mobile Number :3.7Email :3.8Type of
aggrieved MSEMicro Small

4. Type of Respondent (Buyer) :

4.1Address (including PIN Code) :4.2State :4.3District :4.4Mobile Number :4.5Email :4.6Category
of Respondent (Buyer) (CPSU/State PSU)

5. Principal amount payable (Rs.) :

6. Interest claimed as on :

7. Fee paid, if any :

7.1Amount7.2Methodology

**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 :