

Jharkhand Micro, Small and Medium Enterprises Development Rules, 2017

JHARKHAND

India

Jharkhand Micro, Small and Medium Enterprises Development Rules, 2017

Rule

JHARKHAND-MICRO-SMALL-AND-MEDIUM-ENTERPRISES-DEVELOPMENT RULES, 2017

- Published on 1 December 2017
- Commenced on 1 December 2017
- [This is the version of this document from 1 December 2017.]
- [Note: The original publication document is not available and this content could not be verified.]

Jharkhand Micro, Small and Medium Enterprises Development Rules, 2017 Published vide Notification Department of Industries, Mines & Geology Notification Memo - 4100/05-04/2017, dated 1.12.2017 Department of Industries, Mines & Geology Notification Memo - 4100/05- ;kstuk mo fuo &04@2017&mo[kk ,oa Hkwo foo, dated 1.12.2017. - Micro Small and Medium Enterprises Development Act, 2006 has been implemented by the Government of India with effect from 2 October, 2006, through which micro, small and medium enterprises has been defined and necessary provisions for developing micro, small and medium enterprises have been made. In its Section 11, the State Government has been given the right to give priority in purchases from micro, small and medium enterprises for their development in the Chapter-5 of the Micro, Small and Medium Enterprises Development Act. 2006, necessary provisions have been made for resolving the problem of delayed payment of the goods supplied by the micro and small enterprises or the delayed payment of the services rendered and in Section 30, the State Governments has been given the power to notify the Micro, Small and Medium Enterprises Facilitation Council Rules. In the above context, the State Government hereby prescribes the following rules:-

1. Short title and commencement.

(1) These rules will be called Jharkhand Micro, Small and Medium Enterprises Development Rules, 2017. (2) This rule will be effective from the date of publication in the Jharkhand Gazette. (3) It will be extended in entire Jharkhand State.

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)(b)"Section" means the section of the Act(c)"Arbitration and Conciliation Act" means Arbitration and Conciliation Act, 1996 (26 of 1996;(a)"Council" means Micro, Small Enterprises Facilitation Council (MSEFC) set up by Government of Jharkhand, under the provision Section 20 of Act.(e)"Institute" means any institution or center, which provide alternative dispute resolution service referred to in sub-section (2) and (3) of Section 18 of the Act.(f)"Chairman" means the chairperson of the Micro and Small Enterprises Facilitation Council appointed under the provisions of sub-section (1) of Section 21 of the Act.(g)"Member means member of the Council.(h)"State Government" means Government of Jharkhand.(i)"Micro Small Enterprise (MSE)" means micro small enterprise as per the provisions of the Act.(j)Those words and expressions, used are not defined, but defined in the Act, they will have the same meaning as it is defined for them in the Act.

3. Establishment of Micro and Small Enterprises Facilitation Council.

- i. The State Government through a notification shall set up one or more Micro Small Enterprises Facilitation Council in such places as those who exercise such jurisdiction and for such area as may be specified in the notification.ii. The Government may also give secretariat assistance to the appointed Micro and Small Enterprises Facilitation Council (M.S.E.EC.). It may also designate some official of the Secretariat to work as Secretary of the Council, who will have the right to issue notice or order on behalf of the Council.iii. The Government may provide a specialist for the assistance to Council.iv. The Government may specify any fees and / or processing charges to be paid while filing an application.v. The Council Secretariat will have its own seal.

4. Structure of Micro and Small Enterprises Facilitation Council under Section 2 and Section 21 (1) of Micro, Small and Medium Enterprises Development Act, 2006.

- (A) The maximum number of members in the Micro and Small Enterprises Facilitation Council will be 5 (five), which will be as follows:-(i)Director, Industries or designated officer by the State Government under Section 21 (1) (i) of the Act.(ii)Coordinator, State Level Bankers Committee.(iii)Representative, Micro/Small Enterprises Association, Jharkhand, Ranchi.(iv)Legal specialist.(v)Chartered Accountant/Cost Accountant appointed by the Department/ Directorate as consultant.(B)Members other than the Chairman can hold post maximum upto two years from the date of appointment.(C)The membership of the member of the Council appointed under the provisions (ii), (iii), and (iv) of sub-rule (a) of the Rule 4 will end, if they do not represent the category or interest they were appointed for.(D)Any member of the council can abdicate from the Council by giving one month written prior notice to the government. The power to accept member's resignation will be vested in the government.(E)If the post of a member becomes vacant due to any reason, then the State Government can appoint a person to fill that vacancy.(F)Any member can be removed from the post by the Government:(i)If is of unsound mind and stands so declared by the

competent court; or(ii)If becomes bankrupt or insolvent or suspends payment to his creditors; or(iii)If he is convicted for any offence, which is punishable under Indian Penal Code (Act 45/1860); or(iv)If he abstains himself / herself from three consecutive meetings of the council without the leave from Chairperson, and in any case from five consecutive meetings; or(v)If he acquires such financial or other interests as is likely in the opinion of Government to affect pre-judicially his functions as a member.

5. Procedure adopted in the execution of the functions of the Council.

- (A) An aggrieved micro or small enterprises supplier will submit their reference in the application form with the complete details of UAM (Udyog Aadhar Memorandum), mobile no., e-mail ID alongwith full detail of the buyer and its enterprise, material or service supplied, the fixed time limit for payment between supplier and buyer, mentioning the complete statement of outstanding amount and interest calculated in accordance with Section 16 of the Act, which shall be submitted through the affidavit with non-judicial stamp (Non Judicial court fee stamp) of Rs. 20.00 (twenty) affixed or attached. It would be clearly mentioned in the affidavit that no lawsuit is pending before the Civil Court related to this dispute.(B)On receipt of the reference, data regarding the applicant and the defendant will be filed by the office of the Council on the MSME Portal maintained by the Government of India.(C)After entry of data, the acknowledgment receipt will be sent to the applicant immediately through mail or SMS by the council office.(D)After satisfaction, by verifying the fee, fixed stamp, company identification, regarding micro, small, enterprises, Udyog Aadhar memorandum, etc. submitted with reference received by council office, it will be placed before next Council meeting.(E)If the context or the details recorded in it are not found satisfactory by the Council, then the reference can be rejected.(F)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.(G)The institute to which the issue is referred make effort to bring out conciliation and it shall submit its report to Council as soon as possible within 15 days from reference to the council.(H)Where the solution is not successful and decision terminated without any settlement between the parties, the Council shall either itself take up the dispute for further action, i.e., arbitration or refer to an institute for the same.(I)If the matter is referred to an institute, the institute shall arbitrate the issue as per the provisions of the Arbitration and Conciliation Act, 1996 and refer the award to the Council.(J)The Council after finalising the award or receiving the award from the institute shall consider the case and pass the appropriate final order in this matter.(K)The provisions of Section 15 to 23 of the Act shall be effective even if anything is inconsistent with the other effective at the time.

6. Council meetings and quorum.

- (i) The meeting of the Council shall be ordinarily held after giving seven days notice.(ii)However, in the case of urgency, it can be called as such a short notice, as the Chairman may find suitable.(iii)All the notices/communication for the meeting shall be informed to the Petitioner Respondent including information through SMS and e-mail.(iv)The council shall hold regular meetings, at least once in a month.(v)The number of members for the quorum will be three.

7. Decisions of the Council.

- (i) Any decision of the council shall be made by a majority of its members present in the meeting of the council. (ii) In relation to each reference made under Section 18 of the Act, the decision will be made within 90 days of receiving such reference. (iii) No application for setting aside any decree, award or other order made either 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 percent 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.

8. The amount of the claim recovery like the land revenue arrear.

- If the purchaser does not appeal under Section 19 of the Act against the award of the Council or the Institution, or the appeal has been rejected, then the declared awardees can apply for recovery to the Collector of the respective district and the Collector will recover the amount as like land revenue arrear. In other circumstances, the awardees can file a law suit in a competent court.

9.

According to process spelt out in the Act, the council shall inform the status report to the Member Secretary of the National Board of Micro, Small and Medium Enterprises from time to time.

10. Reference Process Charges.

- 1% of the amount claimed by the supplier regarding the delayed payment will be deposited in the form of fees, which will be minimum Rs. one thousand rupees and maximum of five thousand rupees.

11.

State Government will fix honorarium to the Council members.

12. Plant Level Advisory Committee.

- (I) Under the provisions of Section 11 of the Micro, Small and Medium Enterprises Development Act, 2006, PLAC (Plant Level Advisory Committee) will be constituted in all the State and Central Public Enterprises in which the following shall be the members:-(A) Managing Director/Chairman/Director of Public Enterprises of the State/ Center - Chairman (B) Deputy Commissioner of the respective district or their representative - Member (C) Manager of Leading Bank - Member (D) Two Representatives of Micro and Small Enterprises Association - Members (E) General Manager of the District Industry Center of the concerned District - Member Secretary (II) Functions and responsibilities of plant level advisory committee:-(A) Chairman /

Director / Managing Director of Public Enterprises of the State / Center will constitute a Plant Level Advisory Committee within two months of the notification of the Rules.(B)Its meeting will be held at least twice in a year.(C)Plant Level Advisory Committee in relation to supply and payment in the plant will give advice to ensure disbursement of the delayed payment and compliance of the purchase policy in the light of provision of the Micro, Small and Medium Enterprises Development Act, 2006.(D)Plant Level Advisory Committee will also review the works of other development activities under the provision of Micro, Small and Medium Enterprises Development Act, 2006.(E)The General Manager of the District Industries Center of the respective district will submit progress report to the Directorate of Industry.(F)Director, Industries will submit quarterly report to the Advisory Committee of the Government of India.

13. Explanation.

- If there any question raised regarding the interpretation of the rule, then the decision of the state government will be final.

14.

This notification will be effective from the date of issue and in the order of the aforesaid, the Jharkhand Micro, Small Enterprises Facilitation Council Rules, 2007 will be neutralized.