

Rajasthan Micro and Small Enterprises Facilitation Council Rules, 2007

RAJASTHAN

India

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Rule

RAJASTHAN-MICRO-AND-SMALL-ENTERPRISES-FACILITATION-COUNCIL RULES, 2007

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Rajasthan Micro and Small Enterprises Facilitation Council Rules, 2007Published vide Notification No. G.S.R. 85 dated 8.9.2008G.S.R. 85. - In exercise of the powers conferred by section 30 of the Micro, Small and Medium Enterprises Development Act, 2006 (Act No. 27 of 2006) the State Government hereby makes the following rules, namely: -

1. Short title commencement and extent.

(1)These rules may be called the Rajasthan Micro and Small Enterprises Facilitation Council Rules, 2007.(2)They shall come into force with immediate effect.(3)They Shall extend to the whole of the State of Rajasthan.

2. Definitions.

(1)In these rules, unless the context otherwise requires,(a)"Act" means the Micro and Small and Medium Enterprises Development Act 2006 (Central Act No. 27 of 2006);(b)"Chairperson" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of section 21 of the Act;(c)"Council" mean a Micro and Small Enterprises Facilitation Council established by the State Government under section 20 of the Act;(d)"Government" means the Government of Rajasthan;(e)"Institute means" any institution or center providing alternate dispute resolution services referred to in sub-section (2) and (3) of section 18 of the Act;(f)"Member" means a member of the concern Facilitation Council; and(g)"Section" means a section of the Act.(2)The words and expression used and not defined, but defined in the Act shall have the same meaning assigned to

them in the Act.

3. Manner of appointment etc.

(1)The Government may by notification in the Official Gazette appoint the Chairperson and the member of the council specified in clauses (i) (ii) (iii) and (iv) of sub-section (1) of section 21 of the Act. No remuneration shall be paid to any member of a Facilitation Council in Lieu of the services rendered by him.(2)When a member of a council dies or resigns or is removed from office, the Government may by notification in the official gazette appoint a person to fill that vacancy.(3)A member, other than the official members, shall hold office for a period not exceeding two years from the date of his appointment if not removed earlier by the Govt, for the reasons and in the manner as specified in these rule.(4)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 ceases to hold his official position or represent the category or interest from which he was so appointed.(5)Any member of a council may resign from council by tendering one months notice in writing to the Government. The power to accept the resignation of a member shall vest in the Government.

4. Removal of member.

- The Government may remove any member of the 'Council' from office,(i)If, he is of unsound mind; or(ii)if, he becomes bankrupt or insolvent; or(iii)if, he is convicted and sentenced to imprisonment for any offence which is punishable under the Indian Penal Code (Act XL V of 1860); or convicted of any cognizable offence punishable under any other Indian Law.(iv)if, he absents himself from three consecutive meetings of the council without the leave of the Chairperson, and in any case from five consecutive meetings; or(v)acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

5. Procedure to be followed by the council in the discharge of their function.

(1)The council shall meet at least once in a month,(2)At least seven days notice shall ordinarily be given for any meeting; However; in case of urgency a meeting may be called at such shorter notice, as the Chairperson may consider sufficient.(3)The Council may appoint or engage the services of one or more experts in terms of section 26 of the Arbitration and Conciliation Act, 1996.(4)The council, or a party to the dispute with the approval of the council, may apply to the Court under section 27 of the Arbitration and Conciliation Act, 1996, for assistance in taking evidence.(5)Any decision of the council shall be made by a majority of its members present in the meeting of the council, in case of division of votes for a decision equally the Chairperson shall have that casting vote, however, he should mention the justification/ reasons without prejudice, for having so decided, in the verdict.(6)The Chairperson or any other officer authorized by the Chairperson shall forward the proceeding of every meeting or the council including annual progress report to be council to the Member-Secretary of the Advisory Committee constituted under sub-section (2) of the section 7 of the Act.(7)The reference of the aggrieved micro or small enterprise-supplier shall contain full particulars of the supplier and its status, supplied goods or services, terms of payment, if any agreed between the supplier and buyer, actual payment received with date, amount due and the interest

duly calculated under section 16 of the Act, supported by an affidavit on stamp paper. However the council, may authorise any office to receive any reference and issue an acknowledgement and immediately transfer the reference to the concerned council with necessary record. The Chairperson of the council may require any petitioner to provide further particulars of the claim or any relevant documents in support of the claim, as he may consider necessary for the purpose of the proceedings. If the petitioner fails or omits to do so, within fifteen days of receipt of such communication or within such further time as the Chairperson may, for sufficient cause, allow, the council may terminate the proceedings without prejudice to the right of the petitioner to make fresh reference if he is otherwise entitled so to do. The petitioner shall also simultaneously send a copy of the reference to the buyer against whom the reference is directed.(8)The reference shall be acknowledged forthwith if it is delivered at the office of the council. Where the reference/application is received by registered post, its receipt shall be acknowledged on the same day. The Chairperson shall cause the buyer to furnish his detailed response to the reference within fifteen days of receipt of the reference by the buyer or within such further time not exceeding fifteen days, as he may, for sufficient cause allow.(9)On receipt of a reference under section 18 of the Act, the Chairperson of the council shall cause the reference and the buyers response thereto be examined and, on being satisfied with the reference making a prima facie case of delayed payment, cause the reference to be placed before the council at its next immediate meeting for consideration. The Chair-person shall also ensure that each reference received within two weeks of the date of the last preceding meeting of the council is examined and, if found, in order, is placed for consideration of the council at its next immediate meeting.(10)The council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute or centre providing alternate dispute resolution services by making a reference to such an institution or centre for conducting conciliation. The provisions of Sections 65 to 81 of the Arbitration and Conciliation Act, 1996 shall apply to such a reference as if the conciliation was initiated under part III of that Act.(11)The Council or the institute to which it has been referred for conciliation shall require the supplier and the buyer concerned to appear before it by issuing notices to both the parties in this behalf. On the appearance of both parties, the council or the institute shall first make efforts to bring about conciliation between the buyer and the supplier. The institute shall submit its report to the council within fifteen days of reference from the council or within such period as the council may specify.(12)When such conciliation does not lead to settlement of the dispute, the council shall either itself act as an Arbitrator for final settlement of the dispute or refer it to an institute for such arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The supplier or the buyer may, either in person or through his lawyer, present his case before the council or the institute during the arbitration proceedings. The institute shall submit its report to the council within such time as the council may stipulate.(13)The council concerned, shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act, 1996 and within the time specified in sub-section (5) of section 18 of the Act. The Award shall be stamped in accordance with the relevant law in force. Copies of the award shall be made available within seven days of filing of an application.