

# **The Himachal Pradesh Single Window (Investment, Promotion and Facilitation) Act, 2018**

HIMACHAL PRADESH

India

## **The Himachal Pradesh Single Window (Investment, Promotion and Facilitation) Act, 2018**

### **Act 5 of 2018**

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The Himachal Pradesh Single Window (Investment, Promotion and Facilitation) Act, 2018(Act No. 5 of 2018)[Dated 18.5.2018]An Act to provide for time bound clearances for setting up of an industrial undertaking, commencement of production therein and promotion of industrial development in the State.Be it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-ninth Year of the Republic of India as follows :-

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

(1)This Act may be called the Himachal Pradesh Single Window (Investment, Promotion and Facilitation) Act, 2018.(2)It shall come into force on such date as the Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, appoint, and different dates may be appointed for different provisions of this Act.

### **2. Definitions.**

- In this Act, unless the context otherwise requires,-(a)"Appellate Authority" means the Authority as empowered under section 25 of the Act;(b)"Applicable laws" means Acts, Rules or Regulations, as may be prescribed;(c)"Applicant" means a person including an entrepreneur, who himself or on behalf of a legal entity on being so authorized, makes an application for grant of requisite clearances for the setting up and commencement of production of his industrial undertaking or expansion of existing industrial undertaking;(d)"Appropriate Authority" means any Department or Agency of the Government or statutory body which is entrusted with the powers and responsibilities to grant clearances for setting up and commencement of operations of an enterprise in the State;(e)"Clearance" means granting of no-objection certificate, consent, approval, permission, registration, enrolment, license, concession and the like by any Appropriate Authority or a

Departmental Nodal Officer in connection with the setting up and subsequent operation of an enterprise in the State and will include all such permissions as are required under any applicable laws;(f)"Common Application Form (CAF)" means e-application form prescribed for applying for clearances through online State Single Window Portal;(g)"Competent Authority" means a duly authorised officer of the Appropriate Authority who has been notified as an officer competent to grant all requisite clearances and the like which are required to be obtained from that Authority for the setting up an industry and commencement of production therein in the State;(h)"Department" means a department of the State Government;(i)"Departmental Nodal Officer" means an officer of the concerned Appropriate Authority, so designated and notified as Competent officer under this Act to specifically receive, process and convey the clearances, decision of such Authority to the applicant or to the State Single Window Nodal Officer;(j)"Director" means the Director of Industries Department;(k)"e-application" means Common Application submitted by the Applicant through online State Single Window Portal;(l)"Government" or "State Government" means the Government of Himachal Pradesh;(m)"Industrial Policy" means the Industrial Policy or schemes of the Central Government or the Government of Himachal Pradesh, as may be applicable and notified from time to time for industrial promotion, regulation or administration;(n)"Industrial undertaking" means an undertaking engaged in manufacturing or processing or both, or providing service of doing any other business or commercial activity;(o)"Notification" means a notification published in the Rajpatra (e-Gazette), Himachal Pradesh;(p)"Notified time frame" means the timelines as prescribed for granting the specified clearances;(q)"prescribed" means prescribed by rules made under this Act;(r)"State Investment Promotion and Facilitation Cell" means a cell as constituted under sub-section (1) of section 10 of this Act, operating under the Department of Industries for receiving, processing and taking a decision on the e-Application;(s)"State Review Committee" means a committee as constituted under section 8 of this Act;(t)"State Single Window Clearance and Monitoring Authority" means the State Single Window Clearance and Monitoring Authority as constituted under Section 3 of this Act;(u)"State Single Window Nodal Officer (SWNO)" means an officer appointed under section 5 of this Act; and(v)"State Single Window Portal" or "Web Portal" means a web-portal set up under section 15 of this Act.

### **3. State Single Window Clearance and Monitoring Authority.**

(1)The State Government shall by notification constitute a State Single Window Clearance and Monitoring Authority consisting of the following, namely :-

(a) Chief Minister, Himachal Pradesh	Chairman;
(b) Industries Minister, Himachal Pradesh	Vice-Chairman;
(c) Chief Secretary to the Government	Member;
(d) Secretary (Industries) to the Government	Member;
(e) Secretary (Revenue) to the Government	Member;
(f) Secretary (Forest) to the Government	Member;
(g) Secretary (Labour) to the Government	Member;
(h) Secretary (Town and Country Planning) to the Government.	Member;

- (i) Secretary (Urban Development) to the Government Member;
  - (j) Secretary (Environment, Science and Technology) to the Government. Member; and
  - (k) Director of Industries Department Member Secretary.
- (2) The Government may, by notification, alter the constitution of the State Single Window Clearance and Monitoring Authority.

#### **4. Powers and Functions of the State Single Window Clearance and Monitoring Authority.**

(1) All investment proposals, above Rupees Ten crore, for setting up of industrial undertakings or expansion of the existing industrial undertakings shall be placed before the State Single Window Clearance and Monitoring Authority for approval in-principle. (2) The State Single Window Clearance and Monitoring Authority may also take up the proposals recommended by the State Review Committee. (3) The members of the State Single Window Clearance and Monitoring Authority shall personally attend the meeting and in case such member is unable to attend the meeting, he shall depute a senior officer to attend the meeting with an authorization in writing to take appropriate decisions in the meeting. (4) The State Single Window Clearance and Monitoring Authority shall meet at such intervals and at such place, as the Chairman of the Authority may decide. (5) The State Single Window Clearance and Monitoring Authority shall examine the applications for giving clearances, special concessions, exemptions or relaxations under the provisions of law, after taking into consideration the comments of the Department, if any, and make the recommendations to the Government. (6) The State Single Window Clearance and Monitoring Authority may grant approval in-principle for setting up of industrial undertakings or expansion of existing industrial undertaking in the State. (7) On specific request of the applicant(s), the State Single Window Clearance and Monitoring Authority may also make recommendations to the State Government to grant special financial incentives or package over and above the policy provisions for the new or existing industrial undertakings in the interest of the State. (8) After the approval or recommendations under sub-section (6) or sub-section (7), the Appropriate Authority, on completion of the required codal formalities by the applicant, shall issue the required clearances after following the prescribed procedure. (9) The State Single Window Clearance and Monitoring Authority may review its own decisions either on its own motion or on receipt of a representation from any quarter.

#### **5. State Single Window Nodal Officer (SWNO).**

- The Director of Industries will be the State Single Window Nodal Officer. The Government may also appoint any other officer(s), not below the rank of Deputy Director, to assist the State Single Window Nodal Officer for discharging the functions as specified in this Act. The State Single Window Nodal Officer and other officers appointed under this section shall undertake the investment promotional activities and render necessary guidance and assistance to the entrepreneurs to set up industrial undertakings in the State.

## **6. Functions of the State Single Window Nodal Officer.**

- The powers and functions of the State Single Window Nodal Officer will be, - (a) to receive e-application and forward the same to the Departmental Nodal Officer of the Department concerned for comments; (b) to place all the proposals above Rupees Ten crore before the State Single Window Clearance and Monitoring Authority for decision; (c) to co-ordinate with all the Departmental Nodal Officers in accordance with the procedure prescribed to obtain required clearances; (d) to provide all necessary assistance to the applicant(s) to set up industrial undertaking(s) in the State; (e) to co-ordinate all efforts for promoting investments and other related activities in the State; (f) to act as a Competent Authority to sign all documents, approvals, sanctions, grants or instructions required to be issued to the industrial undertaking(s); (g) to monitor investments in various projects for which the approval has been granted by the State Investment Promotion and Facilitation Cell, the State Review Committee or the State Single Window Clearance and Monitoring Authority, as the case may be; (h) to prepare and submit monthly, quarterly, half yearly and yearly progress reports to the State Single Window Clearance and Monitoring Authority and the State Government; and (i) to perform any other job assigned by the State Single Window Clearance and Monitoring Authority or the Government, as the case may be.

## **7. Departmental Nodal Officer.**

(1) The Secretary in each department shall appoint a Departmental Nodal Officer, who shall act as the Competent Authority to exercise the powers for granting clearances required from the concerned Department under their respective applicable laws. (2) The Departmental Nodal Officer will be the single point of contact for the State Investment Promotion and Facilitation Cell for granting clearance(s). (3) The Departmental Nodal Officer will co-ordinate and follow up with the field offices of the respective Department with regard to the pending clearance(s) and will ensure grant of clearance(s) by his Department in time. (4) For the purpose of this Act, the Departmental Nodal Officer shall work under the overall supervision of the State Single Window Nodal Officer (SWNO), who may be authorised to initiate their Annual Appraisal Report, in part.

## **8. State Review Committee.**

(1) The State Review Committee shall consist of the following, namely :-

(a) State Single Window Nodal Officer	Chairman;
(b) Departmental Nodal Officer, Excise & Taxation Department.	Member;
(c) Departmental Nodal Officer, Himachal Pradesh State Electricity Board Limited	Member;
(d) Departmental Nodal Officer, Labour Department.	Member;
(e) Departmental Nodal Officer, Himachal Pradesh State Pollution Control Board.	Member;
(f) Departmental Nodal Officer, Horticulture Department.	Member;
(g) Departmental Nodal Officer, Town and Country Planning Department	Member;
(h) Departmental Nodal Officer, Forest Department.	Member;

(i) Departmental Nodal Officer, Irrigation and Public Health Department. Member;  
and

(j) Departmental Nodal Officer, Industries Department. Secretary. Member

(2) The Committee may co-opt a professional as a member, if so required, for proper and effective discharge of its functions. (3) The members of the committee will attend the meeting personally. (4) Half the number of members will be required to constitute quorum to hold the meeting of the Committee. (5) The Committee may meet at least once in thirty days at such place, as may be decided by the Chairman. (6) The members of the Committee will take up the investment applications requiring clearances from their respective Departments and will adhere to timelines, as may be prescribed, or the shorter timelines specified by the State Single Window Clearance and Monitoring Authority or by the State Review Committee, as the case may be. (7) Approval accorded by the Committee will be binding on all the concerned Departments. (8) The Committee may hire the services of professional(s) or consultant(s) in the State Investment Promotion and Facilitation Cell to promote industrialisation in the State, and to provide handholding support to the applicants, desirous of setting up industrial undertakings in the State.

## **9. Powers and functions of the State Review Committee.**

- The powers and functions of the State Review Committee shall be, - (a) to examine, consider and process the proposals received from the applicant(s) for establishment or expansion of industrial undertakings; (b) to facilitate obtaining of required clearances or comments, as the case may be, on e-applications; (c) to forward all approved e-applications or projects to the State Investment Promotion and Facilitation Cell for rendering further handholding till the project reaches the commissioning of commercial production stage or thereafter during the lifecycle of the project; (d) to monitor and review the progress of granting required clearance(s), the status of sanctioned projects, difficulties being faced by them, or functioning of the Online Single Window Web Portal and the State Investment Promotion and Facilitation Cell; (e) to forward unapproved e-applications to the State Investment Promotion and Facilitation Cell for handholding and guidance; (f) to recommend amending of the timelines, as prescribed to facilitate ease of doing business in the State; (g) to monitor the submission of appeals to the State Single Window Clearance and Monitoring Authority and implement its directives; (h) to submit half yearly action taken report to the State Single Window Clearance and Monitoring Authority; and (i) to carry out such other functions as may be assigned to it by the State Single Window Clearance and Monitoring Authority or the State Government.

## **10. State Investment Promotion and Facilitation Cell.**

(1) The Government shall set up a State Investment Promotion and Facilitation Cell in the Directorate of Industries to provide secretariat support to the State Single Window Clearance and Monitoring Authority and the State Review Committee. The Cell will also act as an industrial investment promotion and facilitation support centre, for handholding and supporting the applicants or budding entrepreneurs and the new and existing industrial undertakings. (2) The officers of Industries Department at the district and local level will act as local nodes of the State Investment Promotion and Facilitation Cell for disposing of all investment proposals in the State

received through the Common Application Form. The Cell shall work with the Officers of the Industries Department across the State to establish a State wide hub and spoke structure which will address business concerns and issues collectively with them.(3)The Departmental Nodal Officers will also be the Officers of the State Investment Promotion and Facilitation Cell.

## **11. Role and functions of the State Investment Promotion and Facilitation Cell.**

(1)The State Investment Promotion and Facilitation Cell will be responsible for receiving the applications, their subsequent processing as per the procedure laid down in this Act and take the proposals to the State Single Window Clearance and Monitoring Authority or the State Review Committee, as the case may be.(2)The State Investment Promotion and Facilitation Cell will function as an expert project approval, monitoring and implementation group, which will act as a single focal point of interface between applicants and the Government Departments for facilitating the new investment proposal(s), providing necessary assistance for setting of the projects approved by the State Single Window Clearance and Monitoring Authority or the State Review Committee, assisting the applicants in obtaining required clearances from the Departments concerned, in a time bound manner.(3)It will co-ordinate with all departments through concerned Departmental Nodal Officer or with the officers of the Appropriate Authority deputed with the Cell to help implementation of the projects on ground.(4)The State Investment Promotion and Facilitation Cell will also provide handholding support to the industrial undertakings in resolving any functional difficulties throughout their lifecycle.(5)The State Investment Promotion and Facilitation Cell may set up and maintain a helpline number and grievance redressal mechanism to facilitate entrepreneurs and redress their grievances.(6)The State Investment Promotion and Facilitation Cell will issue incentive eligibility certificate, wherever required, and help the applicants in applying for admissible incentives, concessions and facilities and sanctioning thereof.(7)The State Investment Promotion and Facilitation Cell shall monitor the functioning of industrial undertakings or projects established in the State and present half yearly report to the State Single Window Clearance and Monitoring Authority and the State Review Committee.(8)The State Investment Promotion and Facilitation Cell will maintain an integrated web portal for providing relevant online sectorial information to the potential investors with regard to land-banks, the State Policies, incentives, etc.(9)The State Investment Promotion and Facilitation Cell may organize workshops, seminars, investment promotion activities to promote investment in the State, in the country or abroad.(10)The State Investment Promotion and Facilitation Cell may appoint consultants on need basis as are required to perform its functions.(11)The State Investment Promotion and Facilitation Cell will exercise all or any specific powers or functions assigned by the State Single Window Clearance and Monitoring Authority or the State Government from time to time.

## **12. Procedure for granting clearances.**

- Notwithstanding anything contained in any other law, the following procedure will be followed by the applicants and all Departments for granting clearances for setting up of industrial undertakings in the State,-(a)All applicants shall apply through e-applications;(b)All e-applications shall be assigned a reference number by the system automatically which may be used by the applicants to

check the status of the same online;(c)The applicants will be kept informed at all stages of processing of applications by way of Short Message Service (SMS) or email or both;(d)All e-applications, complete in all respects, received by the State Single Window Nodal Officer will be initially examined by him in the State Investment Promotion and Facilitation Cell;(e)The e-applications will thereafter be forwarded electronically to the concerned Departmental Nodal Officer;(f)The Departmental Nodal Officer shall access the e-application through the web-portal, the link of which shall be made available to him by the State Investment Promotion and Facilitation Cell;(g)The Appropriate Authority shall also notify the procedure for the grant of required clearances and publish the same in their respective Departmental websites;(h)The Departmental Nodal Officer may work in his Department or may be deputed to the State Investment Promotion and Facilitation Cell. He may have assistance of such officials, as may be provided to him, by his parent Department;(i)The approvals or observations, if any, by the Departmental Nodal Officer will be sent electronically to the State Single Window Nodal Officer and will be accessible to the applicants also;(j)The applicants, in case of observations, will send their reply to the State Single Window Nodal Officer who will forward the same to the concerned Departmental Nodal Officer. All observations of the Department will be conveyed by the Departmental Nodal Officer in one go. Any subsequent clarification(s), if found absolutely necessary, will be obtained and settled within seven working days, and the final decision will be conveyed to the State Single Window Nodal Officer within the time period specified;(k)While processing and granting clearance, the Appropriate Authority may ask for any additional information from the applicants :Provided that such additional information shall be sought by the Appropriate Authority within the period prescribed for granting such clearance and that any additional information shall be called for only once;(l)In case, additional information is sought for clearance (s), the e-application shall be disposed of within the stipulated period, which shall be counted from the date of receipt of the additional information;(m)The e-applications shall be disposed of at the earliest and under no circumstances later than such period, as may be prescribed;(n)In case of rejection of e-application by the Departmental Nodal Officer, the same shall be conveyed within given time frame to the State Single Window Nodal Officer, by giving detailed reasons of rejection;(o)The approval shall be conveyed by the Departmental Nodal Officer electronically to the applicant(s) and the clearance letter duly signed electronically or manually shall be uploaded on the web portal for information and downloading;(p)The provision will also be made in the web portal for verification of clearance(s); and(q)The applicant(s) shall be liable to make payments, as may be prescribed for all the required clearances.

### **13. Deemed clearances.**

(1)In case, the Departmental Nodal Officer or Appropriate Authority does not respond to the e-application forwarded by the State Single Window Nodal Officer or the State Investment Promotion and Facilitation Cell, within the prescribed timeline, the requisite clearances applied for by the applicant, shall be deemed to have been granted and no further objection, will be raised :Provided that e-applications, technically in order for granting clearances, shall only qualify for deemed clearance(s).(2)A clearance certificate under the sub-section (1) shall be issued to the applicant by the concerned Departmental Nodal Officer, after obtaining the fee as may be prescribed.(3)The granting of deemed clearance under sub-section (1) shall be binding on the

concerned Departments and shall be granted through web portal.

#### **14. Timelines for granting clearances.**

(1) All new proposals or proposals for expansion of the existing industrial undertakings which need clearances under one or more of the applicable laws, will be eligible for facilitation under this Act. (2) For all clearances, the Departmental Nodal Officer will process such e-applications, as and when, received by him, within the timeline as may be prescribed.

#### **15. State Single Window Web Portal.**

- The State Investment Promotion and Facilitation Cell will maintain and operate a web-portal for filing of e-applications, for grant of clearances and for setting up an industrial undertaking in the State and under various applicable laws. The State Single Window Nodal Officer will operate the portal as administrator. The nodes of the portal will be made available to all the Appropriate Authorities enabling them to access the portal from their respective offices.

#### **16. Common Application Form.**

(1) The Common Application Form will be used to file e-applications, alongwith fees as may be prescribed, in lieu of the existing multiple forms being used under various laws. All concerned Appropriate Authorities will accept such eapplications for processing and granting requisite clearances. (2) The Common Application Form shall be in a format as may be prescribed.

#### **17. Self-Certification by the Applicants.**

(1) In order to comply with the provisions of the applicable laws every applicant may furnish requisite information with self-certification, in such form as may be prescribed, at the time of submitting the e-application. (2) The self-certification furnished as per sub-section (1) by the applicants will be accepted by the appropriate authority for the purpose of granting of clearances and giving other benefits to the applicants.

#### **18. Memorandum of Understanding.**

(1) The Chairman of the State Review Committee or any other Officer authorised by the State Government in this behalf may sign a Memorandum of Understanding with the applicant desirous of setting up an industrial undertaking in the State, if so, approved by the State Single Window Clearance and Monitoring Authority or the State Government, as the case may be. (2) The Memorandum of Understanding shall be signed in the format, as may be prescribed.



## **19. Rationalisation of inspections.**

- The State Single Window Clearance and Monitoring Authority may direct the Appropriate Authority to conduct inspections through empanelled third party inspectors, or conduct joint inspections required to be undertaken under the provisions of applicable laws. However, inspection on specific complaints may be conducted by the Appropriate Authority.

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

- No suit, prosecution or other legal proceedings will lie against the Chairperson or the member of the State Single Window Clearance and Monitoring Authority or the State Review Committee or any employee of the Government, of anything which is done in good faith or intended to be done, under this Act or any rule made thereunder.

## **21. Penalties.**

(1) Any applicant who gives false information or fails to comply with the conditions or undertakings in the self-certification given on the web portal or to any Appropriate Authority, as the case may be, will face penalty which may extend to Rupees Fifteen thousand for the first offence and upto Rupees Twenty five thousand for the second or subsequent offences. (2) The Director, Industries Department will be the Competent Authority to pass an order to impose a penalty under sub-section (1) : Provided that no order of penalty will be passed without giving the concerned person an opportunity of being heard. (3) The Director, Industries Department will communicate order passed under sub-section (2) to the applicant concerned. The applicant will have to deposit the amount of such penalty with the State Investment Promotion and Facilitation Cell within thirty days from the date of communication of the order. (4) In case of undue delay in processing the case for clearances as per the time schedule prescribed, action shall be taken against the concerned officer by the concerned Disciplinary Authority under the applicable Service Conduct Rules.

## **22. Revision.**

(1) Notwithstanding anything contained in any law, the State Government may, either on its own or on an application made to it in this behalf, call for the record of any proceeding before any Competent Authority or the State Authority or State Review Committee and examine the propriety of the proceedings or orders passed therein, so as to ensure that the orders are neither against the public policy nor against the provisions of law, and pass such orders as it may think fit within one year of issuance of the orders, being so revised in case of rejection of the application for permission and within three months in case of grant of permission. (2) The order passed by the Government under this section shall be final and binding on all concerned.

## **23. Confidentiality.**

- No agency or authority of the Government or, any local authority, including any functionaries thereunder, shall disclose to any other applicant or to a person not duly authorised, any information forming the intellectual property of the investor without the consent of such investor :Provided that all information in respect of the terms and conditions of the investment made in the State and the facilities, if any, provided to the investor by the Government or Appropriate Authority shall be notified by the Government, for information of the public.

## **24. Transitional provisions.**

- The provisions of this Act shall apply to all investment proposals that have been under consideration of the Government or Appropriate Authority on the date of commencement of this Act, if the concerned investor so opts by submitting an e-application.

## **25. Appeals.**

- Any applicant aggrieved by the orders of, - (a) the State Single Window Nodal Officer or the Departmental Nodal Officer or State Review Committee may file an appeal to the State Single Window Clearance and Monitoring Authority; and (b) the State Single Window Clearance and Monitoring Authority may file an appeal to the State Government within a period of thirty days from the date of the receipt of the order.

## **26. Act to have an overriding effect.**

- The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other State law, for the time being in force :Provided that fine, penalty or duty etc., if any, under the applicable laws will be imposed as per provisions of such applicable laws.

## **27. Powers to remove difficulties.**

(1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by general or special order published in the Rajpatra (e-Gazette), Himachal Pradesh, make such provisions not inconsistent with the provisions of this Act or rules made thereunder, as may appear to be necessary or expedient for removing the said difficulty :Provided that no order under this section shall be made after expiry of a period of two years from the commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Legislative Assembly.

## **28. Powers to make rules.**

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act. (2) All the rules made under this Act shall be laid, as soon as may be after they are so made,

before the Legislative Assembly, while it is in session, for a period of not less than fifteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the Assembly makes any modification(s) in the rules or the Assembly decides that the rules should not be made, such rules shall have effect only in such modified form or be of no effect, as the case may be. However, that any such modification or annulment shall be without prejudice to the validity of anything done earlier thereunder.