

# **The Chhattisgarh, Micro and Small Enterprises Facilitation Council Rules, 2006**

CHHATTISGARH

India

## **The Chhattisgarh, Micro and Small Enterprises Facilitation Council Rules, 2006**

### **Rule**

### **THE-CHHATTISGARH-MICRO-AND-SMALL-ENTERPRISES-FACILITATION-COUNCIL-RULES-2006**

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The Chhattisgarh, Micro and Small Enterprises Facilitation Council Rules, 2006Published vide Notification No. F. 20-01/07/11/(6), dated 23-2-2007, C.G. Rajpatra, Part 1, dated 16-3-2007 at pp. 366-372In exercise of the powers conferred by Section 30 read with sub-section (3) of Section 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (No. 27 of 2006), State Government hereby make the following rules, namely :-

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

(1)These Rules may be called the Chhattisgarh, Micro and Small Enterprises Facilitation Council Rules, 2006.(2)It shall come into force with effect from date of its publication in the "Official Gazette".

#### **2. Definitions.**

- In these Rules, unless the context otherwise requires :-(a)"Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (No. 27 of 2006);(b)"Section" means section of the Act;(c)"Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (No. 26 of 1996);(d)"Agent" means a person duly authorised by a party to the dispute to represent that party before the Council;(e)"Applicant" means a party to a dispute who makes a reference to the Council;(f)"Council" means the Micro and Small Enterprises Facilitation Council established by the State Government under Section 20 of the said Act;(g)"Institute" means any institution or centre providing alternate dispute resolution services referred to in sub-sections (2) and (3) of Section 18 of

the said Act;(h)"Chairperson" means the Director of Industries by whatever name called or any other officer not below the rank of Director of Industries of the State Government;(i)"Representative of Association" means a person authorised by the President of any Industry Association located in the State of Chhattisgarh and recognised by the State Government.

### **3. Composition of the Micro and Small Enterprises Facilitation Council.**

(1)The Council shall consist of the following members, namely ;-(i)Commissioner of Industries/Director of Industries, Chhattisgarh, who shall be the Chairperson of the Council;(ii)One or more office-bearers or representatives of Associations of Micro or Small Industry' or enterprise in the State;(iii)One or more representatives of Banks and financial institutions lending to Micro or Small enterprises;(iv)One or more persons having special knowledge in the field of Industry, Finance, Law, Trade and Commerce to be nominated by the State Government.(2)The terms of the members nominated under clauses (ii), (iii) and (iv) of sub-rule (1) shall be two years from the date of their nomination.(3)A member may resign his/her office by giving one month notice in writing thereof to the Chairperson of the Council and shall thereupon cease to be a member of the Council.(4)The Government may remove any member from office/Council :-(i)if he is of unsound mind and stands so declared by a competent Court; or,(ii)if he becomes insolvent or bankrupt or suspends payment to his creditors; or(iii)if he is convicted of any offence which is punishable under the Indian Penal Code, 1860 (Act XLV of 1860); or(iv)if he absents himself from three consecutive meetings of the Council without assent of the Chairpersons, 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)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, by notification in the official gazette, appoint a person to fill that vacancy.

### **4. Meeting of the Council.**

(1)The meeting of the Council shall be held at least once in a month at such time and place as may be decided by the Chairperson.(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 Chairperson of the Council or in his absence a member elected by the members present from amongst themselves shall preside over the meetings of the Council.(4)The quorum of the meeting of the Council shall be two-third of the total number of members of the Council. If at any time, the quorum is not present, the Chairperson of the Council shall adjourn the meeting to such future date and time as he may fix and a fresh notice shall be given for such meeting and no quorum shall be necessary for such adjourned meeting.(5)All questions at the meetings of the Council shall be decided by a majority of the votes of the members present and in case of equality of votes, the Chairperson or in his absence the person presiding over the meeting shall have a second or casting vote.

## 5. Procedure to be followed.

(1) Applicant make a reference to the Council under Section IS of the Micro, Small and Medium Enterprises Development Act. 2006. (2) The amount due from a buyer together with the amount of interest calculated in accordance with Section 16 of the said Act shall be recoverable by the supplier from the buyer by way of a suit or other proceedings under any law for the time being in force. Supplier shall contain full particulars of the supply and its status, supplied goods or services, terms of payment, if any, agreed between the supplier and buyer, actual payment received with date etc., in the application. (3) Any party to a dispute may file an application to the Council in the form appended to these rules stating the facts supporting his claim, the points at issue and the relief or remedy sought in person or by any agent or by registered post with acknowledgment due addressed to the Secretary of the Council. (4) The application shall be presented in duplicate. (5) The applicant will have to pay such application fee as prescribed by State Government from time to time. (6) Where the number of respondents is more than one, as many extra copies of the application as there are respondents, shall be furnished by the applicant. (7) If on scrutiny, the application is found to be in order it shall be duly registered and given a serial number. (8) If the application on scrutiny is found to be defective and the defect noticed is formal in nature, the Chairman may allow the applicant to rectify the same in his presence and if the said defect is not formal in nature the Chairman may allow the applicant such time to rectify the defect as he may deem fit. The time of rectification shall not be more than 15 days. (9) If the applicant fails to rectify the defect within the time allowed under sub-rule (7) the Chairman may by order and for reasons to be recorded in writing decline to register the application and inform the applicant accordingly in writing. (10) After registering the case, Council shall issue a notice to the non-applicant accompanied by a copy of the application filed by the applicant. (11) If the respondent refuses to take notice then such refusal shall be endorsed in the notice by the person serving the notice and it shall be deemed to have been served on the respondent. (12) Each respondent intending to contest the application shall file in duplicate the reply of the application to the Chairman of the Council within 15 days of the service of the notice of application on him. (13) In reply, the respondent shall specifically admit, deny or explain the facts stated by the applicant in his application and also state such additional facts as may be found necessary for a just decision in the case. (14) The Council may allow filing of the reply after the expiry of the prescribed period. (15) The parties may submit with their statement all documents which they consider to be relevant or may add a reference to the documents of other evidence. (16) Either party may amend or supplement the claim or defence during the course of the proceedings unless the Council considers it inappropriate to allow such amendment or supplement. (17) The Council shall decide whether to hold oral hearing for the presentation of evidence or for oral argument or whether the proceedings shall be conducted on the basis of documents and other materials : Provided that the Council shall hold oral hearing at an appropriate stage of the proceeding on a request by a party unless the parties have agreed that no oral hearing shall be held. (18) The parties shall be given sufficient advance notice of any hearing and of any meeting of the Council. (19) Where without sufficient cause a party fails to appear at an oral hearing or to produce documentary evidence, the Council may continue the proceedings and make (he award on the basis of evidence before it. (20) 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 the Act.(21)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 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.(22)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 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 registered with any Court, 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.(23)The Council 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.(24)The provisions of Sections 15 to 23 of the Act, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.(25)The Chairperson or any other officer authorised by the Chairperson shall forward the proceedings of every meeting of the Council including annual progress report of the Council to the Member Secretary of the Advisory Committee.

## **6. Decision of the Council.**

(1)After ascertaining the facts of the case by examining the parties or other witnesses or on inspection of the documents or after hearing oral arguments, the Council shall record an order showing the grounds for its decisions and communicate the decision to the applicant and respondent concerned.(2)The decision of the Council shall be made by majority of all its members.(3)Every order passed by the Council shall be dated and shall also be signed by every member of the Council present.(4)Subject to the provisions of Sections (16), (17) and (18) of the said Act, the decision of the Council shall be final and binding on the parties.

## **7. Settlement.**

(1)The Council may use mediation, conciliation or other procedure at any time during the proceedings to encourage a settlement, between the parties.(2)If during the proceedings of the Council the parties agree to settle the dispute among themselves, the Council, shall terminate the proceedings and if requested by the parties and not objected to by the Council, record the settlement in the form of an award on agreed terms.(3)The Council may also pass interim orders.

## **8. Limitation.**

- The Council shall decide the dispute filed before it within 90 days from the date of registration of the dispute :Provided that Commissioner/Director of Industries may extend the period as deemed fit.Form[See sub-rule (3) of Rule 5]Forms of reference to the Micro and Small Enterprises

Facilitation Council

- 1. Name of the applicant with address.**
- 2. Name of the respondent with address.**
- 3. Nature of the claim.**
- 4. Amount of payment claimed.**
- 5. Amount of interest claimed.**
- 6. Total claim.**
- 7. Any other relief sought.**
- 8. Brief description of the claim.**
- 9. Details of documents in support of the claim. (Annexures 1 and 2)**
- 10. Names and addresses of witness, if any.**
- 11. Details of application fee deposited.**
- 12. Any other information relevant to the claim.**

Place :Date :Signature of the applicantAnnexure 1

S.No.	Date of Bill/Invoice	Bill/Invoice No.	Bill/Invoice Amt	Date of Receipt of Payment	Amt. Received
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Balance Amt. Dues	Period Delay/Interest Payable	Over Due Days	Rale of Interest Applied
From	To		

Amt. of Interest	Balance Amt. Alongwith Interest	Purchase Order No. & date of supply	Due date of delivery	Extended date of delivery
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Annexure 2Requirements from Applicant

- 1. Copy of bills, delivery challan or any other proof of delivery.**
- 2. Terms of agreement for supply.**
- 3. Correspondence regarding supply from buyer, if any.**
- 4. C.A. certificate regarding Investment in Plant and Machinery in support of SSI.**
- 5. Copy of Balance Sheet for the Year of Petition filed to the Council and Balance sheet for the year of first supply.**
- 6. Copy of permanent registration certificate of D.T.I.C.**
- 7. Complete copy of A/c of Buyer party for the period of claim of interest.**
- 8. Details of orders received with terms.**
- 9. To clarify, the date of delivery and raising of bill regarding above orders.**
- 10. Date of receipts appropriated against bills.**
- 11. Furnish calculation of interest from appointed day as per prescribed rate.**