

Karnataka Industries (Facilitation) Act, 2002

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Act 45 of 2003

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Karnataka Industries (Facilitation) Act, 2002(Karnataka Act No. 45 of 2003)Statement of objects and Reasons - It is considered necessary to provide for the promotion of industrial development and facilitation of new investments, to simplify the regulatory frame work, by reducing the procedural requirements and rationalising documents and to provide for an investor friendly environment in the State of Karnataka. The Bill among other things provides for the following, namely:-1. Constitution of State High Level Clearance Committee, State Level Single Window Clearance Committee and District Level Single Window Clearance Committee for consideration of application from entrepreneurs intending to establish industries in the State.2. Appointment of Karnataka Udyoga Mitra as a Nodal Agency at State Level and the District Industries Centre at Nodal Agency at the District level to undertake investment promotional activities and to render necessary guidance and assistance to entrepreneurs to setup industrial undertaking in the State.3. Providing Combined Application Form in lieu of existing forms prescribed under various laws.4. Facilitating entrepreneurs by furnishing a self certification at the time of submitting the combined application form to the Nodal Agency.5. Rationalising inspections by various authorities.6. Providing for deemed approval by the departments or authorities in case of delay.7. Penalty for entrepreneurs who fail to comply with the conditions of undertaking in the self certification.Hence the Bill. (L.A Bill No.5 of 2002)(Entries 24 of List-II and 23, 24, 36 and 37 of List-III of Seventh Schedule to the Constitution of India)First published in the Karnataka Gazette Extra-ordinary on the Fourth day of November, 2003Received the assent of the President on the Twenty Seventh day of October, 2003.An Act to provide for the promotion of industrial development and facilitation of new investments to simplify the regulatory frame work by reducing procedural requirements and rationalising documents and to provide for an investor friendly environment in the State of Karnataka.Whereas, it is expedient to provide for speedy implementation of industrial and other projects in the State by providing single point guidance and assistance to promoters, reducing the procedural requirements rationalising documents and to ensure smooth operation;Be it enacted by the Karnataka State Legislature in the Fifty third year of the Republic of India as follows:-Chapter-I Preliminary

1. Short title and commencement.

(1) This Act may be called the Karnataka Industries (Facilitation) Act, 2002. (2) It shall come into force on such date as the State Government may by notification appoint.

2. Definitions.

- In this Act unless the context otherwise requires, - (i) "Appellate Authority" means an appellate authority referred to in section 18; (ia) "Applicable Acts" means the Factories Act, 1948, the Boilers Act, 1923, the Contract Labour (Regulation and Abolition) Act, 1970, the Employees State Insurance Act, 1948, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, the Payment of Wages Act, 1936, the Maternity Benefit Act, 1961, Gratuity Act, 1972, the Equal Remuneration Act, 1976 and the Karnataka Shops and Commercial Establishments Act, 1961; (ii) "Authority" includes a local authority or any statutory Board, Corporation or other authority established by the State Government and which are entrusted with the powers or responsibility to grant or issue clearances; (iii) "Clearances" means grant or issue of no-objection certificate, allotments consents, approvals, permissions, registration, enrolments, licences and the like, by any Authority or authorities in connection with setting up an industrial undertaking in the State. (iv) "Department" means, a department of the State Government. (v) "District Level Single Window Clearance Committee" means a Committee constituted under section 9; (vi) 'Entrepreneur' means a person or body of persons or a company, having majority investment or controlling interest in an industrial or undertaking. (vii) 'Industrial undertaking' means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the State Government; (viii) 'Nodal Agency' means the Nodal Agency at the State level or at the district level constituted under section 12; (ix) 'State High Level Clearance Committee' means the State High Level Clearance Committee constituted under section 3; (x) 'State Level Single Window Clearance Committee' means the State Level Single Window Clearance Committee constituted under section 6. Chapter-II

3. State High Level Clearance Committee.

(1) The State Government may by notification constitute a single point clearance committee called on State High Level Clearance Committee consisting of such members as may be specified therein. (2) The Committee shall examine and consider the proposals received from any entrepreneur relating to any industrial and other projects to be set up in the State, with an investment of rupees fifty crores and above in each case. (3) Member of the Committee shall personally attend the meeting and in case he is unable to attend the meeting, he may depute a senior level officer to attend the meeting with a written authorisation to take appropriate decision in the meeting.

4. Functions of the Committee.

(1) The Committee shall meet at such times and in such places and shall adopt such procedure to transact its business as may be prescribed. (2) The Committee shall examine the proposals for setting

up any industrial undertakings referred to in sub-section (2) of section 3 and shall take a decision and communicate its decision to the entrepreneur and the concerned departments or authorities within such time as may be prescribed.

5. Powers of the Committee.

- The Committee shall be the final authority in granting approvals for the projects placed before it. The approvals given by the Committee shall be binding on all the concerned departments or authorities and such departments or authorities, shall issue the required clearances within the stipulated time and subject to compliances by the entrepreneur undertaking of the provisions of the applicable Central or State Acts and the rules made there under.

6. State Level Single Window Clearance Committee.

(1)The State Government may by notification constitute a single window clearance committee for the State called as the 'State Level Single Window Clearance Committee' consisting of such members as may be specified therein.(2)The State Level Single Window Clearance Committee shall examine and consider proposal received from the entrepreneurs relating to industrial and other projects to be set up in the State with an investment of more than three crores rupees and less than rupees fifty crores each.(3)A member of the Committee shall personally attend the meetings and in case he is unable to attend the meeting he may depute a senior level officer with a written authorisation to take appropriate decision in the meeting.

7. Functions of the Committee.

(1)The State Level Single Window Clearance Committee shall meet at such times and such places and shall adopt such procedures to transact its business as may be prescribed.(2)The State Level Single Window Clearance Committee shall examine the proposals for setting up industrial undertakings referred to in sub-section (2) of section 6 and shall take a decision and communicate its decision to the entrepreneur and the departments or authorities concerned within one week of the meeting.

8. Powers of the Committee.

- The State Level Single Window Clearance Committee shall be the final authority in granting approvals for the projects placed before it. The approvals given by the Committee shall be binding on the departments or authorities concerned and such departments or authorities shall issue the required clearance within the stipulated time subject to compliances by the entrepreneurs with the provisions of the applicable Central or State Acts or rules made thereunder.

9. District level Single Window Clearance Committee.

(1)The State Government, may, by notification constitute a single point clearance committee at the district level called the 'District Level Single Window Clearance Committee' consisting of such members, as may be prescribed. The District Level Single Window Clearance Committee shall examine and consider proposal received from entrepreneurs relating to industrial projects with the investment of upto rupees three crores each to be set up in the respective districts.(2)A member of the Committee shall attend the meetings personally and in case he is unable to attend the meeting he may depute a senior level officer with the written authorisation to take appropriate decision in the meeting.

10. Functions of the Committee.

(1)The District Level Single Window Clearance Committee shall meet at such times and such places and shall adopt such procedures to transact its business as may be prescribed.(2)The District Level Single Window Clearance Committee shall examine the proposals for setting up industrial undertakings referred to in sub-section (1) of section 9 and shall take a decision and communicate its decision to the entrepreneurs and the departments or authorities concerned within such time as may be prescribed.

11. Powers of the Committee.

- The District Level Single Window Clearance Committee shall be the final authority in granting of approvals for the projects placed before it. The approvals given by the Committee at the district level shall be binding on the departments or authorities concerned and such departments or authorities shall issue the required clearance within the stipulated time subject to compliances by the entrepreneur of provisions of the applicable Central or State Acts and the rules made thereunder.

12. Appointment of Nodal Agency.

(1)The State Government may, by notification, appoint the Karnataka Udyoga Mitra as a 'Nodal Agency' at the State level and the 'District Industries Centres' as the 'District Nodal Agency' at the district level to undertake investment promotional activities and to render necessary guidance and assistance to entrepreneurs to set up industrial undertakings in the State.

13. Functions of the Nodal Agency.

(1)The functions of Nodal Agency at the district level shall among others includes the following:(a)to carryout investment promotional activities,(b)to render necessary assistance in policy formulation for industrial progress,(c)to guide and assist entrepreneurs to set up industries in the State,(d)to issue combined application form to the entrepreneurs and also to receive the forms from them and to arrange required clearances from departments and authorities within the stipulated time.(e)to provide secretarial support to the High level Clearance Committee, State level Single Window

Clearance Committee and the District level Single Window Clearance Committee.(f)to promote environment friendly and clearer technology and production practices,(g)to perform any other function as may be entrusted to it by the State Governments.(2)The State level Nodal agency shall also perform functions referred to in sub-section (1) and in addition prepare and regularly update an entrepreneurs guide providing complete particulars relating to,-(i)State and Central Industrial policies,(ii)Procedure to obtain the required clearances from the department and authorities(iii)information on industrial status and advantages existing in the State.(iv)salient features of Acts and the rules made thereunder applicable to an industrial undertaking, and(v)any other information useful to the entrepreneurs.

14. Combined Application Forms (CAF).

- The State Government may, prescribe Combined Application Form for the use of entrepreneurs whose projects are approved either by the State High Level Clearance Committee or State level Single Window Clearance Committee and District level Single Window Committee, in lieu of existing forms prescribed under applicable Central or State Acts except the application for Licensing of a Factory as provided in section 41-A of the Factories Act, 1948 and the rules made thereunder for obtaining the required clearances. All Departments or authorities concerned shall accept such Combined Application Form for processing and issue of required clearances.

15. Certification.

(1)Every entrepreneur shall furnish a 'Self Certification' at the time of submitting the duly completed Combined Application Form and thereafter once in a year to the Nodal Agency undertaking that he shall comply with the applicable provisions of the relevant Acts and the rules made thereunder. The undertaking shall be furnished in such form as may be prescribed.(2)The self certification furnished by the entrepreneur shall be accepted by the departments and authorities for the purpose of issuing and granting clearance and giving other benefits to the entrepreneur.

16. Rationalisation of Inspections.

- Inspections under the provisions of applicable Acts or rules by different levels of authorities, shall be conducted jointly with the Office of the Labour Commissioner, Chief Inspector of Factories and Boilers representatives of the Employees State Insurance Corporation and the Employees Provident Fund Organization and Karnataka State Pollution Control Board once in a year. Such inspections shall be based on random selection. However, inspections against specific complaints, may be conducted with the authorisation by the heads of the department or authority. Further, inspections in respect of pollution and safety aspects may be conducted as required under the relevant Acts or rules. Other inspections under other laws or rules as may be specified by the State Government from time to time shall be waived and self certification shall be accepted.

17. Deemed approval.

- Every department or authority notwithstanding anything contained in any other law shall issue clearance within the stipulated time limit failing which such clearances shall be deemed to have been issued.

18. Appeal.

(1) Any person aggrieved by the decision of the State High Level Clearance Committee, State Level Single Window Clearance Committee District Level Single Window Clearance Committee disapproving the project may within thirty days from the date of receipt of communication of the decision of the Committee appeal to the Appellate Authority as may be prescribed and different appellate authorities may be prescribed in respect of appeals against the decision of different level of committees. (2) The Appellate Authority shall after following such procedure as may be prescribed dispose off the appeal within a period of one month from the date of its receipt.

19. Penalty.

- Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to five thousand rupees for the first offence and for the second or subsequent offence with fine which may extend to ten thousand rupees.

20. Offences by companies etc.

(1) Where an offence under this Act is committed by a company, the company, as well as every person in charge of and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of any director, manager secretary or other officer such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section, - (a) "Company" means any body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm means a partner in the firm.

21. Power to make rules.

(1) The State Government may, by notification, after previous publication make rules to carry out the purposes of this Act. (2) Every rule made under this Act shall be laid as soon as may be, after it is

made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions immediately following both Houses agree to make any modification in the rule or both Houses agree that the rules should not be made the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall without prejudice to the validity of anything previously done under that rule.

22. Protection of action taken in good faith.

- No suit or legal proceedings shall lie against the Chairman or other members of the State High Level Clearance Committee or State Level Single Window Clearance Committee or District Level Single Window Clearance Committee or any employee of such Committee in respect of anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

23. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order not inconsistent with the provisions of this Act remove the difficulties. Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of the Act.