

Himachal Pradesh Micro and Small Enterprises Facilitation Council Rules, 2018

HIMACHAL PRADESH

India

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Rule

HIMACHAL-PRADESH-MICRO-AND-SMALL-ENTERPRISES-FACILITATION COUNCIL RULES, 2018

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Himachal Pradesh Micro and Small Enterprises Facilitation Council Rules, 2018Published vide Notification File No. Ind-A(F)19-21/2005-Vol-1, dated 16.04.2018Government of Himachal Pradesh Industries Department A-SectionFile No. Ind-A (F)19-21/2005-Vol-I. - In exercise of the powers conferred by section 30 read with section 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), the Governor of Himachal Pradesh is pleased to make the following rules for carrying out the provisions of the Act ibid, namely: -

1. Short title, extent and commencement.

(1)These rules may be called the Himachal Pradesh Micro and Small Enterprises Facilitation Council Rules, 2018.(2)They shall extend to the whole of the State of Himachal Pradesh.(3)They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires, -(a)"Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);(b)"Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (26 of 1996);(c)"Council" means the Himachal Pradesh Micro and Small Enterprises Facilitation Council, established by the Government under section 20 of the Act;(d)"Chairperson" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of section 21 of the Act;(e)"Government" means the Government of the Himachal Pradesh;(f)"Institution" means any institution or centre providing alternate dispute

resolution service referred to in sub-section (2) and (3) of section 18 of the Act;(g)"member" means a member of the Council; and(h)"Section" means a section of the Act;(2)The words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively as assigned to them in the Act.

3. Manner of Appointment of Members and filling up of vacancies of the Council.

(a)The Council shall consist of minimum three and maximum five members, including the Chairperson.(b)The Government shall appoint the Members as per clause(ii), (iii) and (iv) of sub-section (1) of section 21 of the Act.(c)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 or she ceases to represent the category in which he or she was so appointed.(d)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 appoint another person to fill that vacancy.(e)Any Member of the Council may resign from the Council by tendering one month's notice in writing to the Government.(f)The Government may remove any member from office: -(i)If he is of unsound mind and has been so declared by a competent court; or(ii)If he becomes bankrupt or insolvent or does not make payment to his creditors; or(iii)If he is convicted of any offence which is punishable under the Indian Penal Code (Act XLV of 1860), or(iv)If he abstains himself/herself from three consecutive meetings of the Council without the leave of the Chairperson, and in any case from five consecutive meeting even with the permission of the Chairperson; 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.

4. Procedure to be followed in the discharge of functions of the Council.

- (i) An aggrieved Micro and Small Enterprise unit can move a reference to the Council having jurisdiction of the area in the format as provided in the Schedule-I of these rules. The reference shall contain the Udyog Aadhar Memorandum (UAM) number, mobile number and email address of aggrieved Micro and Small Enterprise unit.(ii)Such references shall be attached with fee or processing charges as notified by the Government and with an undertaking from aggrieved Micro and Small Enterprise unit that it has not moved a reference before the Civil Court in the same dispute.(iii)Upon receipt of reference from the supplier Micro and Small Enterprise unit, the Council shall enter the data in the web/portal created for this purpose.(iv)After entering the data, acknowledgement of the receipt of reference shall be issued to the applicant Micro and Small Enterprise unit through email.(v)The Council may examine the reference at preliminary stage to check regarding the fee or competency of Micro and Small Enterprise unit to file the reference.(vi)In case, if the reference or the particulars entered in it are not found to the satisfaction of Council, the same may be returned.(vii)The Council shall either itself conduct conciliation in the matter or seek the assistance of any institution for conducting the conciliation and if, it decides to do so, shall refer the parties to the Institution.(viii)The Institute to which the issue is referred makes efforts to bring about the conciliation and it shall submit its Report to the Council as soon as possible, usually within 15 days from the date of reference referred to the Council.(ix)Where the conciliation is not successful and stands terminated without any settlement between the parties , the Council shall

either itself take up the dispute for further action, i.e. arbitration or refer it to an 'institution' for the same.(x)The Council, after finalizing the award or receiving the award from the Institution, shall consider the case and pass an appropriate final order in the matter.

5. Meeting of the Council and Quorum.

- (i) The meeting of the Council shall be ordinarily held after giving seven days notice.(ii)However, in case of urgency, it can be called at such short notice as the Chairperson may find suitable.(iii)All the notices / communication for the meeting shall be informed to the petitioner including through Short Message Service and email.(iv)The Council shall hold regular meetings, at least once a month.(v)The quorum of meeting will be two, in case, if the number of members is three or four and it will be three if the number of members is five.

6. Decisions of the Council.

- (i) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.(ii)Every reference made under section 18 shall be decided within a period of ninety days from the date of making such reference.(iii)The Council shall upload the proceedings of every meeting of the Council on the web portal created for the purpose.(iv)No application for setting aside any decree, award or other orders made either by 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.

7. Progress Report.

- (i) The Council shall upload the basic information including the annual progress report of the Council on the web portal created for the purpose.(ii)The Council shall provide information to the Member Secretary of National Board for Micro, Small and Medium Enterprises as defined in the Act in the manner and form required from time to time.

8. Repeal and Savings.

(1)The Himachal Pradesh Micro and Small Enterprises Facilitation Council Rules, 2007 is hereby repealed.(2)Notwithstanding such repeal any action taken or anything done under the rules so repealed shall be deemed to have been taken or done under the corresponding provisions of these rules.

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Format for Reference on delayed payment to the Himachal Pradesh Micro and Small Enterprises Facilitation Council.ToThe ChairpersonHimachal Pradesh Micro andSmall Enterprises Facilitation

Council, _____ Reference : U/s 18 of the Micro, Small & Medium Enterprises Development Act, 2006. I am authorized representative of M/s _____. This firm is micro/small unit as per provisions of Micro, Small and Medium Enterprises Development Act, 2006. This unit has supplied the goods to M/s _____, but it has not been paid as per provisions of Section 15 of the Act *ibid*. I, therefore, being aggrieved with this unit, wish to file a reference. This information pertaining to the case is as under:

1. Udyog Aadhar No. (Note: - MSME unit can register Udyog Aadhar on Udyogaadhar.gov.in (http://udyodaadhar.gov.in) :

2. Date of Filing Application (DD/MM/YYYY) :

3. Details of aggrieved MSE Unit

3.1 Name of Authorized representative: 3.2 Name of the Unit: 3.3 Address (including Pin code): 3.4 District: 3.5 State: 3.6 Mobile Number: 3.7 Email: 3.8 Type of aggrieved MSE Micro Small

4. Name of Respondent (Buyer)

4.1 Address (including Pin Code) : 4.2 District: 4.3 State: 4.4 Mobile Number: 4.5 Email: 4.6 Category of Respondent (Buyer) [CPSU/State PSU/.....]

5. Principal Amount Payable (Rs. _____)

6. Interest claimed as on :

7. Fee paid, if any:

7.1 Amount : 7.2 Methodology :

8. Documents enclosed in support of claim in respect of supply of goods supply or services rendered as referred above:

(i).....(ii).....(iii).....
hereby, declare that information given above is true to the best of my knowledge. Any information that may be further required, shall be provided immediately before the concerned authority. I further declare that I have not filed/preferred any appeal before any court on the same dispute. Signature.....Name : (Authorized Signatory on behalf of aggrieved MSE) Date: