

The Madhya Pradesh Micro and Small Enterprises Facilitation Council Rules, 2017

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The Madhya Pradesh Micro and Small Enterprises Facilitation Council Rules, 2017

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Bhopal, the 24th November, 2017

In exercise of the powers conferred by sub-section (1) and (2) of Section 30 read with sub-section (3) of section 21. of Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), and in supersession of earlier notifications issued in this behalf the Governor of Madhya Pradesh, hereby, makes the following rules for facilitating the working of Madhya Pradesh Micro and Small Enterprises Facilitation Council/s (MPMSEFC), namely:-

RULES

1. Short title, extent and commencement-

- (1) These rules may be called the Madhya Pradesh Micro and Small Enterprises Facilitation Council Rules, 2017.
- (2) They shall extend to the whole of the State of Madhya Pradesh.
- (3) They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

2. Definitions.- 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 1 996);
- (c) "Chairperson" means the Chairperson of the Micro and Small Enterprises Facilitation Council appointed under clause (i) of sub-section (i) of section 21 of the Act'
- (d) "Collector" means the collector of a District;
- (e) "Council" means the Micro and Small Enterprises Facilitation Council
- (f) established by the Government of Madhya Pradesh under Section 20 of the Act;
- (g) "Government" means the Government of Madhya Pradesh;
- (h) "Institution" means any institution or center providing alternate
- (i) dispute resolution services referred to in sub-section (2) and (3) of section 18 of the Act;
- (j) "Member" means a member of the Council;
- (k) "MSE Unit" means a micro or small enterprise as per the provisions of Act.

- (l) "Quorum" means the minimum number of members of the council whose presence is necessary in order to enable the council to hold its sittings validly.
- (m) "Section" means the Section of the Act;
- (2) The words and expression used but not defined in these rules Small have the same meaning as assigned to them in the Act.

3. Setting up of the Council.-

- (1) The State Government Small establishes at least one Council. However, if the work so demands, it can also set up more Council exercising such jurisdiction and for such area as may be specified in the Notification.
- (2) The State Government may also give secretariat assistance to Council so appointed. It may also designate some official of the Secretariat to work as the Secretary to the Council who can be empowered by the Council to issue notices or orders on behalf of the Council.
- (3) The State Government may provide a legal expert to assist the Council.
- (4) The State Government may specify any fee and/or processing charges to be paid while filing application
- (5) The Secretariat for Council may have its own seal.

4. Manner of appointment of Chairperson.-

The State Government Small appoints Commissioner/ Director of Industries of the Micro Small and Medium Enterprises Department of the Government of Madhya Pradesh as Chairperson of the Council Keeping in view the provisions as exist in sub-clause (i) of Clause (1) of Section 21 of the Act. However, another senior officer can also be designated as Commissioner/ Director of Industries for a limited purpose for being the Chairperson of the Council.

5. Manner of Appointment of Members of Council.-

- (1) The Council Small consists of not less than three, but not more than five members including the Chairperson.
- (2) The State Government Small appoint the representatives specified in clauses (ii), (iii) or (iv) of sub-section (1) of section 21 of the Act as member of the Council.
- (3) A member appointed under clauses (ii), (iii) and (iv) of sub-section (1) of Section 21 of the Act Small cease to be a member of the Council if he or she ceases to represent the categories or interest in which he or she was so appointed.
- (4) When a member of the council dies or resigns or is deemed to have resigned or is removed from the office or becomes incapable of acting as a member, the State Government may appoint another person to fill that vacancy.

- (5) Any member of the Council may resign from the Council by tendering one month's notice in writing to the State Government. The power to accept the resignation of a member Small vest in the State Government.
- (6) The Government may remove any member from office-
- (a) if he of unsound mind and stands so declared by a competent court; or
 - (b) if he becomes bankrupt or insolvent or suspends payment to his creditors; or
 - (c) if he is convicted of any offence which is punishable under the Indian Penal Code, 1860 (45 of 1860); or
 - (d) 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; or
 - (e) if he acquires such financial or other interest as is likely, in the opinion of the State Government, to affect prejudicially his functions as a member.
- (7) A member, other than the Chairperson and Non-official member, Small hold office during the pleasure of the authority nominating him. Non official member Small hold office for a period of not exceeding two years from the date of his appointment.

6. Honorarium to the Members of the Council

The remuneration, honorarium or fees and any allowances that may be paid to the members Small be at rates as approved/ notified by the Government,

7. Procedure to be followed in the discharge of functions of the Council:-

- (1) An aggrieved MSE unit can move a reference to the Council having territorial jurisdiction over the matter in the format mentioned in Schedule 1 of these rules. The reference must have the Udyog Aadhar Memorandum (UAM) number, mobile number and email address of aggrieved MSE unit as mentioned in Schedule I.
- (2) Such reference should be attached with fee or processing charges as notified by the State Government, vide para 3 (iv) above and with an undertaking from aggrieved MSE unit that it has not moved a reference before the Civil Court on the same dispute.
- (3) Upon receipt of references from the supplier MSE unit, the Secretariat of the Council Small enter the data in the web portal created for this purpose.
- (4) After entering the data acknowledgement of the receipt. of reference Small be issued by the Secretariat to the applicant MSE unit through email.
- (5) The Council may examine the reference at preliminary stage to check regarding the fee or competency of MSE unit to file the reference.
- (6) In case if the reference or the particulars entered in it are not found to the satisfaction of Council, it may return the reference.

- (7) The Council Small either itself conduct conciliation in the matter or seek the assistance of any institute for conducting the conciliation and if it decides to do so, Small refer the parties to the Institute.
- (8) The Institute to which the issue is referred makes efforts to bring about conciliation and it Small submit its Report to the Council within 15 days from the reference to the Council.
- (9) Where the conciliation is not successful and stands terminated without any settlement between the parties, the Council Small either itself take up the dispute for further action, i.e., arbitration or refer it to an 'institute' for the same.
- (10) If the matter is referred to the institute, the institute Small arbitrate the issue as per the provisions of Arbitration and Conciliation Act, 1996 (No. 26 of 1996) and refer the award to the Council.
- (11) The Council after finalizing the award, or receiving the award from the Institute Small consider the case and pass appropriate final orders in the matter.
- (12) 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.
- (13) 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 (No. 26 of 1996) for assistance in taking evidence.

8. Meetings of the Council and Quorum.-

- (1) The meeting of the Council Small be ordinarily held after giving seven days notice.
- (2) However, in case of urgency, it can be called at such short notice as the Chairperson may find suitable.
- (3) All the notices/ communication for the meeting Small be informed to the petitioner through SMS and email.
- (4) The Council Small held regular meetings at least once in a month.
- (5) The quorum of meeting Small be two, in case if the number of members is three or four, and it Small be three if the number of members is five.

9. Decisions of the Council.-

- (1) Any decision of the Council Small be made by a majority of its members present at the meeting of the Council.
- (2) The Council Small make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act, 1996 (No. 26 of 1996) and within the period as specified in sub-section (5) of section 18 of the Act. The award Small be stamped in

accordance with the relevant law in force. Copies of the award Small be made available within seven days of filing of an application.

- (3) The Secretariat Small upload the proceedings of every meeting of the Council on the web portal created for the purpose.
- (4) No application for setting aside any decree, award or other order 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, Small 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.

10. Recovery of amount due as an arrear of land revenue.-

If a buyer does not file any appeal under section 19 of the Act for setting aside any decree, award or other order made either by the Council itself or by any institution or centre or if such appeal is dismissed, in that situation such decree, award or order Small be executed by the Collector of the District concerned and the amount due Small be recovered as an arrear of land revenue.

11. Progress Report.-

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

12. Removal of difficulties.-

- (1) All the proceedings initiated as per earlier Rules Small continue unabated.
- (2) If any difficulty arises during the course of implementation of these Rules, the same Small be clarified by the Central Government.

13. Repeal and Saving.-

- (1) The Madhya Pradesh Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertaking Rules, 1999 are hereby repealed.
- (2) Notwithstanding anything done or any action taken in pursuance of any provision of the said Rules Small deemed to have been done or taken under the corresponding provision of these rules.

SCHEDULE-I

Format for Reference on delayed payment to MSEFC-----

To,

The Chairperson,

Micro and Small Enterprises Facilitation Council,

Reference : Under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED)

I am authorised representative of M/S í í í í í í í í í í í í ..This firm is a micro/ small unit as per provisions of MSMED Act, 2006. This unit has supplied the goods to M/S ----- --- - but it has not been paid as per the provisions of Section 15¹ of the MSMED Act, 2006. I, therefore, aggrieved with this unit, wish to file a reference. The information pertaining to the case is as under:

1. Udyog Aadhaar No. (Note-MSME unit can register Udyog Aadhaar on udyogaadhaar.gov.in(<http://udyogaadhaar.gov.in>):
2. Date of Filing Application (DD/MM/YY):

3. Details of Aggrieved MSE Unit

(1) Name of Authorized representative :
(Authorization to be attached)

(2) Name of the Unit

(3) Address(including Pin Code):

(4) State :

(5) District :

(6) Mobile Number

(7) Email :

(8) Type of Aggrieved MSE Micro Small

4. Name of Respondent (Buyer)

(1) Address(including Pin Code):

(2) State :

(3) District :

- (4) Mobile Number
- (5) Email
- (6) Category of Respondent (Buyer), [CPSU/State PSU/í í í í í í í .]

5. Details of information in respect of claim

- (1) Details of supply orders issued by the purchaser/ Respondent with description of material/ Service provided quantity and cost along with photocopies.
- (2) Details of Invoices/ Bills, raised against supply order with particulars of material / service name, quantity and cost along with photocopies,:-
- (3) Details of delivery challans / work completion certificates/ goods receipt.
- (4) Details of material/ services acceptance, quantities and date with photocopies:-
- (5) Detailed description of mutually agreed terms and conditions between purchaser and supplier / Agreement / Contract along with stipulated delivery date.
- (6) Details of paid and unpaid invoices with dates in the order of supplies.
- (7) Details of completion, of forty five days and appointed day for calculating delayed payment for good supply.
- (8) Details of correspondence with Respondent for payment of outstanding dues.
- (9) Authentic details of complaints/objection of Respondent if any against goods supplied/ service provided or any understanding between parties.
- (10) If a complaint is received from Respondent on supplied goods and services or on mutual agreement then acceptance of the same after rectification / replacement with date and authentic proof.
- (11) Acceptance by Respondent after rectification of supplied material and services with mutual consent.

6. Principal Amount Payable (Rs.) í í í í í í í í í í ..

7. Interest Claimed as on : í í í í í í í í í í í í í ..

Interest claimed for delayed payment. (Calculation of interest in format below):-

S. No.	Invoice/ Bill Nog. and Date of Supply order	Total Amount of Invoice/ Bills indicated in column	Date of receipt Of goods by purchaser	Amount of Payments Received with dates against goods supplied/service provided	Delay period	Principal Amount remaining unpaid	Detail of those bills with Bill No. and date on which interest hat been claimed,	
							Invoice/ Bill Amount 18 No. and Date	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	

Due date /45 days as the case may be from the date of purchase order/ agreement or as provided in the Act for payment for calculating the actual date of appointed day	Calculation of interest on delayed/ unpaid payment in terms of rules/ agreement from the date of appointed day till the date of filing the case before the council (Total No. of days)	Interest of Bank Rate as Notified by the Reserve bank of India	Calculation of Compound interest with monthly interest at three times of the Bank rate Notified by the Reserve bank of India. (As indicated in column (10) For the period from í í í í í .to. í í í í ..	Remark
(9)	(10)	(11)	(12)	(13)

8. Index of documents enclosed in support of the claim:-

S. No.	Particulars	Document No.	Page No.	
			From	To
1	Application			
2				
3				
4				

1. Relief Sought.
2. Name of witnesses with Address.
3. Any other relevant information and brief description (Case History)
4. Additional Information

(a) Audited Balance Sheet and Ledger for the relevant financial years .

- (b) Details of submission of memorandum before the District Trade and Industries Centre and Acknowledgement thereof by the DTIC with its no. and date, along with photocopy.
- (c) Declaration to the effect that no case/ suit is pending and has been filed before any Competent Court on the same cause of action/ subject matter of dispute by the Petitioner.
- (d) Affidavit in support of application.

I, hereby declare that the information given above is true to the best of my knowledge. Any information that may be further required, Small 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. í í í í í í .

Name..... í í í í í ..

Designation of Applicant

Date:

Seal of Enterprise
(Authorized Signatory on behalf of aggrieved MSE)

INSTRUCTIONS

1. Application must be supported by an affidavit.
2. Only typed Application on green legal paper Small be entertained.
3. All Annexure (s) to the application must be self attested.
4. List of Documents dully mentioning the page numbers in chronological order Small be enclosed along with the application.
5. Copy of application must be in proportion to the number of respondents along with one original copy.
6. Incomplete application Small not be accepted.
7. Soft copy of the application is required to be submitted.