

**Government Of Madhya Pradesh
Commerce, Industry and Employment Department
Mantralaya**

Bhopal, Dated 10/1/2007

NOTIFICATION

No. F 6-12/98/A-XI In 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 (27 of 2006), the State Government, hereby, makes the following rules, namely:-

RULES

1. Short title, extent and commencement:-

- (1) These rules may be called the Madhya Pradesh Micro and Small Enterprises Facilitation Council Rules, 2006.
- (2) They shall extend to the whole of Madhya Pradesh.
- (3) They shall be deemed to have come into force with effect from the 2nd day of October, 2006.

2. Definition:- 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) "Chairperson" means the Chairperson of the Micro and Small Enterprises Facilitation Council appointed under clause (i) of sub-section (1) of section 21 of the Act;
- (d) "Collector" means collector of a District appointed by the State Government;
- (e) "Council" means the Micro and Small Enterprises Facilitation Council established by the State Government under Section 20 of the Act;
- (f) "Department" means Commerce, Industry and Employment Department of the State Government;
- (g) "Institute" means any institution or center providing alternate dispute resolution services referred to in sub-section (2) and (3) of section 18 of the Act;

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- (h) "Member" means a member of the Council;
- (i) "Secretary" means a Joint Director of the Department, nominated by the Chairperson;
- (j) "Section" means a Section of the Act;
- (k) "State Government" means the Government of Madhya Pradesh;
- (l) The words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. Manner of appointment etc:

- (a) The State Government shall appoint the representatives, specified in clauses (ii), (iii) or (iv) of sub-section (1) of section 21 as member of the Council.
- (b) The secretary shall, in accordance with the directions of the Chairperson, facilitate to convene the meetings of the Council, and also perform other functions to provide secretarial assistance to the council.
- (c) 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 a person to fill that vacancy.
- (d) A member, other than the Chairperson, shall hold office during the pleasure of the authority nominating him.
- (e) 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 ceases to represent the category or interest from which he was so appointed.
- (f) 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 shall vest in the State Government.
- (g) The State Government may remove any member form office;
 - (i) if he is of unsound mind and stands so as declared by a competent court;
or
 - (ii) if he becomes bankrupt or insolvent or suspends payment to his creditors;
or
 - (iii) if he is convicted of any offence punishable under the Indian Penal code, 1860 (Act XLV of 1860); or

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- (iv) if he absents himself from three consecutive meetings of the council without the leave of the Chairperson, and in any case from five consecutive meetings; or
- (v) acquires such financial or other interest as is likely, in the opinion of the State Government, to affect prejudicially his functions as a member.

4. Procedure to be followed in the discharge of functions of the council:

- (i) The Council shall ordinarily meet at least once in a month.
- (ii) 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.
- (iii) 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.
- (iv) 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, for assistance in taking evidence.
- (v) The reference/application of the aggrieved micro or small enterprise supplier shall contain full particulars of the supplier and its status, supplied goods or services, terms of payment, if any, agreed between the supplier and buyer, actual payment received with date, amount due and the interest duly calculated under section 16 of the Act, supported by an affidavit, with necessary court fee stamp affixed thereon. The Chairperson of the the council may require any petitioner to provide further particulars of the claim or any relevant documents in support of the claim as he may consider necessary for the purpose of the proceedings. If the petitioner fails or omits to do so within fifteen days of receipt of such communication or within such further time as the Chairperson may, for sufficient cause, allow, the Council may terminate the proceedings without prejudice to the right of the petitioner to make fresh reference if he is otherwise entitled to do so. The petitioner shall also simultaneously send a copy of the reference to the buyer or buyers against whom the reference is directed.
- (vi) the reference/application shall be acknowledge forthwith if it is delivered at the office of the Council. Where the reference/application is received by registered post, its receipt shall be acknowledged on the same day. The Chairperson shall cause the buyer to furnish his detailed response to the reference within fifteen days of receipt of the reference by the buyer or within such further time not exceeding fifteen days, as he may, for sufficient cause, allow.
- (vii) On receipt of a reference under section 18 of the Act, the Chairperson of the Council shall cause the reference and the buyers response thereto to be examined and, on being satisfied with the reference making a prima facie case of delayed

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payment, cause the reference to be placed before the Council at its next immediate meeting for consideration. The Chairperson shall also ensure that each reference received within two weeks of the date of the last preceding meeting of the council is examined and, if found in order, is placed for consideration of the Council at its next immediate meeting.

- (viii) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute or center providing alternate dispute resolution services by making a reference to such an institution or center, for conducting conciliation. The provisions of section 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 that Act.
- (ix) 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.
- (x) 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 an 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.
- (xi) The decision of the council shall be made by a majority of its members present at the meeting of the council.
- (xii) The Council shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act, 1996 and within the period as specified in sub-section (5) of section 18 of the Act. The award shall be stamped in accordance with the relevant law in force. Copies of the award shall be made available within seven days of filing of an application.
- (xiii) The Chairperson or the Secretary or any other officer authorized 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 constituted under sub-section (3) of section 7 of the Act.

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5. **Recovery of amount due as arrears 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 shall be executed by the Collector of the District concerned and the amount due shall be recovered as arrears of land revenue.

6. **Repeal and Saving:**

(1) The Madhya Pradesh Interest on Delayed on Delayed Payments to Small Scale and Ancillary Industrial Undertaking Rules, 1999 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in pursuance of any provision of the said rules shall deemed to have been done or taken under the corresponding provision of these rules.

**By order and in the name of the Governor of
Madhya Pradesh**


(T.C. Lohani) 10.1.07

Additional Secretary

Govt. Of Madhaya Pradesh

Commerce, Industry and Employment Department

