



MSME
RULES

Rules of Micro & Small Enterprises Facilitation Council (MSEFC) under The Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006)

***The Micro, Small and Medium Enterprises Development Act, 2006 is a central act. (read with reference to maharashtra rules 2007).**

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 Government/Administration of Maharashtra hereby makes the following rules, namely

1. Short title and commencement.-

- (1) These rules may be called the Maharashtra Micro and Small Enterprises Facilitation Council Rules, 2007.
- (2) It shall come into force with effect from the 8th June 2007.
- (3) It shall extend to the whole of the State of Maharashtra.

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) "Chairperson" means the Chairperson of the Council;
 - (d) " Council" means the Micro and Small Enterprises Facilitation Council, established by the Government under section 20;
 - (e) "Institute" means any institution or centre providing alternate dispute resolution services as referred to in sub-sections (2) and (3) of section 18;
 - (f) "Government" means the Government of Maharashtra;
 - (g) "member" means a member of the Council;
 - (h) "section" means a section of the Act.
- (2) Words and expressions used but not defined in these rules, shall have the meanings assigned to them in the Act.

3. Composition of the Council.-

(1) The Council shall consist of not less than three but not more than five members, as follows:-

1. Chairperson - Additional Divisional Commissioner (Revenue) and Ex-officio Additional Development Commissioner, Directorate of Industries.
2. Members - Not more than two representatives of associations of micro or small industries or enterprises in the concerned Revenue Division.
3. Member - (a) Zonal or Regional Manager of one of the lead banks lending money to micro or small enterprises in the concerned revenue division; or
(b) one person having special knowledge in the(*) field of industry, finance, law, trade or Commerce.

(*) The Regional Joint Director of Industries or Superintending Industries Officer of the concerned region shall be the ex-officio Secretary of the Council

4. Manner of appointment, term of office -

(1) The State Government shall, by notification in the Official Gazette, appoint the members of the Council, under clauses (2) and (3) of sub-rule (1) of rule 3.

(2) A member appointed under sub-rule (1), shall hold office for a period not exceeding three years from the date of his appointment or till a new member is appointed in his place by the Government, whichever is earlier.

(3) The member appointed under sub-rule (1), shall not be eligible for re-appointment as such a member for more than two terms.

(4) A member appointed under clauses (ii), (iii) or (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.

(5) Any member of the Council may resign from his office by tendering one month's notice in advance in writing to the Government.

(6) The Government may, after giving the concerned member a reasonable opportunity of being heard, remove any member from office if he,-

- (i) is of unsound mind and stands so declared by a competent court; or
- (ii) has become an undischarged insolvent; or
- (iii) has been convicted of any offence punishable under the Indian Penal Code (XLV of 1860); or
- (iv) 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 Government, to prejudicially affect his functions as a member.

(7) Any casual vacancy in the office of a member, either due to death, resignation or removal shall be filled in by the State Government by appointing a suitable person to represent. the category.

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

(1) The Council shall meet, at least once in a month.

(2) At least seven days' notice in advance shall ordinarily be given to the members 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 Council may appoint or engage the services of one or more experts as provided in section 26 of the Arbitration and Conciliation Act.

(4) 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, for assistance in taking evidence.

(5) The reference or 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 Council may require any applicant 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 applicant 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 reason, allow, the Council may terminate the proceedings for non-compliance without prejudice to the right to the applicant to make fresh reference if he is otherwise entitled so to do. The applicant shall also simultaneously send a copy of the reference to the buyer or buyers against whom the reference is directed.

(6) The reference or application shall be acknowledged forthwith if it is delivered at the Office Of The Council. Where the reference or application is received by registered post, its receipt shall be acknowledged on the same days. The Chairperson shall cause the buyer to furnish his detailed reply 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 reason, allow.

(7) On receipt or a reference under section 18 of the Act, the Chairperson of the Council shall cause the reference and the buyers reply thereto to be examined and, on being satisfied with

the reference making a prima facie case of delayed 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.

(8) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute providing alternate dispute resolution services, by making a reference to such an institution, for conducting conciliation. The provisions of sections 65 to 81 of the Arbitration and Conciliation Act shall apply to such a reference as if the conciliation was initiated under Part III of that Act.

(9) The Council or the institute to which the reference has been referred for conciliation shall require the supplier and the buyer concerned to appear before it by issuing notices to both parties. 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.

(10) 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 any institute or centre providing alternate dispute resolution for such arbitration, in accordance with the provisions of the Arbitration and Conciliation Act. The supplier or the buyer may, either in person or through his Advocate, present their case before the Council or the institute during the arbitration proceedings. The institute or centre shall submit its report to the Council within such time as the Council may stipulate.

(11) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.

(12) The Council shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act and within the time specified in sub-section (5) of section 18 of the Act. The award shall be stamped in accordance with the provisions of the relevant law in force. The copies of the award shall be made available to the parties within seven days of filing of an application for copy of award.

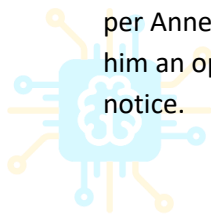
(13) The Chairperson or any other officer authorised by the Chairperson shall forward the proceedings of every meeting of the Council including annual progress report of the Council to the Member-Secretary of the Advisory Committee constituted under sub-section (2) of the section 7 of the Act.

(14) The Council having jurisdiction over the dispute shall be that Council in whose jurisdiction the MicroEnterprises or Small Enterprises (Manufacturing and Servicing) which is a party to the dispute shall have an entrepreneur's Memorandum (E.M.-part-II), acknowledged as such by, or on behalf of the Directorate of Industries Maharashtra State or any authority notified by the Government or Government of India from time to time.

(15) The Member-Secretary of the concerned Council shall receive the reference in the form of statement of claim along with the necessary documents mentioned in Annexure-I, an affidavit as per Annexure-II on requisite amount of stamp paper for validation of the facts mentioned in the application.

(16) The Member-Secretary shall scrutinise the application and on satisfaction enter the case in a register giving case number.

(17) The Member-Secretary shall authenticate the application by putting his seal, signature and date on each and every page/document and issue acknowledgement receipt of the complaint as per Annexure-III to the applicant and issue notice as per Annexure-IV to the respondent giving him an opportunity to submit his say in writing within 30 days from the date of receipt of the notice.



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