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GOVERNMENT OF MEGHALAYA
COMMERCE & INDUSTRIES DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 18th March, 2019

No. IND.105/2014/116 : In exercise of the powers conferred by Sub-Section (1) read with Sub-Section (2) of Section 30 read with sub-section (3) of the Section 21 of Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), and in supersession of the earlier "The Meghalaya Micro and Small Enterprises Facilitation Council Rules, 2009", the Governor of Meghalaya hereby makes the following rules for facilitating the working of Micro and Small Enterprises Facilitation Council;

1. **Short title and commencement** – (i) These rules may be called the "Meghalaya Micro and Small Enterprises Facilitation Council Rules, 2019".

(ii) They shall extend to the whole State of Meghalaya

(iii) They shall come into force from the date of their publication in the official Gazette of Meghalaya, -

2. **Definitions** - In these rules, unless the context otherwise requires -

(i) "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);

(ii) "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (26 of 1996);

(iii) "Council" means the Meghalaya Micro and Small Enterprises Facilitation Council, established by the Government under Section 20 of the Act;

(iv) "Chairperson" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of Section 21 of the Act;

(v) "Government" means the Government of the State of Meghalaya, in the Department of Commerce and Industries;

(vi) "Institute" means any institution or centre providing alternate dispute resolution service referred to in Sub-section (2) and (3) of Section 18 of the Act;

(vii) "Member" means a member of the Council;

(viii) "MSE" unit means a Micro or Small Enterprise as per the provisions of the Act.

(ix) "Section" means a Section of the Act;

(x) The words and expressions used and not defined, but in the Act shall have the meanings assigned to them in the MSMED Act, 2006.

3. **Setting up of the MSEFC** - (i) The Government shall establish at least one Micro and Small Enterprises Facilitation Council (MSEFC). However, if the work so

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demands, it can also set up more MSEFCs exercising such jurisdiction and for such area as may be specified in the Notification.

- (ii) The Government may also give secretariat assistance to MSEFCs so appointed. It may also designate some official of the Secretariat to work as the Secretary to the Council who can be empowered by MSEFC to issue notices or orders on behalf of the Council.
- (iii) The Government may provide a legal expert to assist the Council.
- (iv) The Government may specify any fee with or without processing charges to be paid while filing application.
- (v) The Secretariat for Council may have its own seal.

4. **Manner of appointment of Chairperson** - The Government shall appoint Director of Commerce and Industries Department as Chairperson of the Council keeping in view the provisions as exist in sub-clause (i) of clause (I) of Section 21 of the Act. However, another senior Officer can also be designated as Director of Commerce and Industries for a limited purpose of being the Chairperson of the Council.

5. **Manner of Appointment of Members of MSEFC** - (i) The MSEFC shall consist of not less than three but not more than five members, including the Chairperson.

- (ii) Members shall be appointed as per provisions of Clause (ii), (iii) and (iv) of sub-section (1) of Section 21 of the Act.
- (iii) A member appointed under clauses (ii), (iii) and (iv) of sub-section (I) of Section 21 shall cease to be a member of the Council if he or she ceases to represent the category or interest in which he or she was so appointed.
- (iv) 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.
- (v) Any member of the Council may resign from the Council by tendering one month's notice in writing to the Government.
- (vi) The Government may remove any member from office :-
 - (a) if he is 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 (Act XLV of 1860), or
 - (d) if he abstains himself or herself from three consecutive meetings of the Council without the leave of the Chairperson, and in any case from five consecutive meetings or
 - (e) acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

- (vii) A member other than the chairperson, shall hold office for a period not exceeding three years from the date of his or her appointment.
6. **Honorarium to the Members of the Council** - The remuneration, honorarium or fees and any allowances that may be paid to the members shall be at rates as approved or notified by the Government from time to time.
7. **Procedure to be followed in the discharge of functions of the Council** -
- (i) An aggrieved MSE unit can move a reference to the MSEFC having jurisdiction of the area in the format provided as Schedule I of these Rules. The reference must have the Udyog Aadhaar Memorandum (UAM) number, mobile number and email address of aggrieved MSE unit as provided in Schedule I.
 - (ii) Such references should be attached with fee or processing charges as notified by the Government and specified under sub rule (iv) of rule 3 above and with an undertaking from aggrieved MSE unit that it has not moved a reference before the Civil Court on the same dispute.
 - (iii) Upon receipt of references from the supplier MSE unit, the Secretariat of the Council shall enter the data in web portal created for this purpose.
 - (iv) After entering the data, acknowledgement of the receipt of reference shall be issued by the Secretariat to the applicant MSE unit through email.
 - (v) The Council may examine the reference at preliminary stage to check regarding the fee or competency of MSE unit to file the reference.
 - (vi) In case if the reference or the particulars entered in it are not found up to the satisfaction of the Council, it may return the reference.
 - (vii) The Council shall 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, shall refer the parties to the Institute.
 - (viii) The institute to which the issue is referred shall make efforts to bring about conciliation and it shall submit its Report to the Council as soon as possible, usually within fifteen days from the date of reference 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 'Institute' for the same.
 - (x) If the matter is referred to the institute, the institute shall arbitrate the issue as per the provisions of Arbitration and Conciliation Act, 1996 and refer the award to the Council.
 - (xi) The Council after finalising the award, or receiving the award from the Institute shall consider the case and pass appropriate final orders in the matter.

8. **Meeting of the Council and Quorum** - (i) The meeting of the Council shall be ordinarily held after giving seven day's 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 or communication for the meeting shall be informed to the petitioner in writing including through SMS 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 total number of members is three or four, and it will be three if the total number of members is five.
9. **Decisions of the MSEFC** - (a) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.
- (b) Every reference made under Section 18 to the MSEFC shall be decided within a period of ninety days from the date of making such reference.
- (c) The Secretariat shall upload the proceedings of every meeting of the Council on the web portal created for the purpose.
- (d) 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, shall be entertained by any Court unless the appellant, not being 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. **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 the National Board for Micro, Small and Medium Enterprises as defined in the Act in the manner and form required from time to time.
11. **Removal of difficulties** - (i) All the proceedings initiated as per earlier Rules shall continue unabated.
- (ii) If any difficulty arises during the course of implementation of these Rules, the same shall be clarified by the Central or State Government as the case may be.

Sd/- M.R.Synrem, IAS.,
Commissioner & Secretary to the Government of Meghalaya
Commerce & Industries Department.


Memo No.IND.105/2014/116-A

Dated Shillong, the 18th March, 2019.

Copy to :-

1. The Additional Secretary & Development Commission (MSME), Ministry of Micro, Small & Medium Enterprises, Govt. Of India, Office of DC-MSME "A" Wing 7th Floor, Nirman Bhawan, New Delhi – 110108.
2. P.S. to Hon'ble Chief Minister, Meghalaya, Shillong for the information of Chief Minister.
3. P.S. to Hon'ble Minister in-charge Commerce & Industries for the information of the Minister.
4. P.S. to Chief Secretary, Meghalaya, Shillong.
5. P.S. to Principal Secretary/Commissioner & Secretary/Secretaries of all Administrative Departments, Meghalaya, Shillong.
6. P.S. to Commissioner & Secretary, Commerce & Industries Department.
7. All Heads of Department.
8. Director of Printing & Stationery with a request to publish this Notification in the Meghalaya Extra Ordinary Gazette and also to furnish a copy to this Department.
9. Director of Commerce & Industries, Meghalaya, Shillong with reference to letter No.M/Dind/MSME/8/2017/19 dt. 01.11.2018.

By Orders etc.,


Under Secretary to the Govt. of Meghalaya,
Commerce & Industries Department.