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GOVERNMENT OF PUNJAB

DEPARTMENT OF INDUSTRIES AND COMMERCE

NOTIFICATION

The 20th September, 2021

No. Comm/MSEFC/Draft Rule/2021/4110-B.—In exercise of the powers conferred by-section 30 read with sub-section (3) of section 21 of Micro, Small and Medium Enterprises Development Act, 2006 (Central Act. No.27 of 2006) and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules providing for the composition of the Council, the manner of filling vacancies of its members and the procedure to be followed in the discharge of the functions, namely: -

RULES

1. Short title, extent and commencement.— (1) These rules may be called the Punjab Micro and Small Enterprises Facilitation Council Rules, 2021.

(2) They shall extend to the whole of the State of Punjab.

(3) They shall come into force on and with effect from the date of their publication in the official Gazette.

2. Definition (1) In these rules, unless the context otherwise requires; -

(i) “Act” means the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act. No.27 of 2006);

(ii) “Arbitration and Conciliation Act” means the Arbitration and Conciliation Act, 1996 (Central Act. No.26 of 1996);

(iii) “Chairperson” means the Chairperson of the Council appointed under clause (i) of sub-section (1) of section 21;

(iv) “Council” means the District Level Micro, Small Enterprises Facilitation Council, established by the Government under section 20;

(v) “Form” means the Form appended to these rules;

(vi) “Government” means the Government of the State of Punjab in the Department

of Industries and Commerce;

(vii) “institute” means any institution or centre providing alternate dispute resolution services referred to in sub-sections (2) and (3) of section 18;

(viii) “Member” means a member of the Council;

(ix) “section” means a section of the Act; and

(x) Web portal means the Samadhan Portal of Government of India.

(2) Words and expressions used but not defined, but defined in the Act shall have the same meanings as assigned to them in the Act.

Section 21. **3. Composition of the Council.-** (1) For the purposes of section 21, the respective Deputy Commissioner of the district shall exercise the powers of the Director Industries and Commerce, Punjab and shall be the Chairperson of the Council with the following other members namely: -

(i) Lead District Bank manager of the concerned District : Member

(ii) Two members from the associations of micro or : Members
small industry or enterprises in the state MSMEs
(non official)

(iii) General Manager of District Industries Centre : Member-Secretary

(2) The office of the General Manager, District Industries Centre of the respective district shall act as the Secretariat office for the Council and shall be empowered to issue notices or orders on behalf of the Council.

(3) The Government may provide a legal expert to assist the Council.

(4) The Secretariat for the Council may have its own seal.

Section 21. **4. Manner of appointment and terms of members of the Council.-** (1) A member of the Council shall cease to be its member if he ceases to represent the category or interest in which he was so appointed.

(2) 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.

(3) Any non official member of the Council may resign from the Council by tendering one month's notice in writing to the Government. The power to accept the resignation of a member shall vest in the Government.

(4) The term of non official members of the Council shall be five years and the Secretary to Government of Punjab, Department of Industries shall be competent to extend the term of non official members for another period of one year.

(5) The Government may remove any member from office;

(a) if he is 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 for any offence which is punishable under the Indian Penal Code, 1860 (45 of 1860); or

(d) if he abstains himself from three consecutive meetings of the Council without the leave of the Chairperson, and in any case from five consecutive meetings ; or

(e) if he acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

- 5. Procedure to be followed in the discharge of functions.-** (1) The supplier Micro Small Entrepreneurs (MSE) unit may submit its reference online at Samadhan portal <https://samadhaan.msme.gov.in> and has to submit hard copy of the uploaded reference in the Secretariat office of the respective Council within thirty days, failing which the Council may, citing sufficient reasons, reject online application after a lapse of thirty days period. (3)
- (2) The supplier Micro, Small Entrepreneur unit may submit a reference directly to the Council having jurisdiction of the area in the format provided 'Form-I' in the Secretariat office of the Council together with Udyam Registration number or Udyog Aadhar Memorandum, mobile number and email id.
- (3) The reference/application delivered in the Secretariat office shall be acknowledged and uploaded on the portal.
- (4) The Council may require any petitioner supplier to provide any better statement or particulars of claim or any further documents in support of the claim as it may consider necessary for the purpose of the proceedings, and if the petitioner supplier fails or omits to do so within thirty days of the receipt of any such communication or within such further time as the Council may for sufficient cause allow, the Council may terminate the proceedings without prejudice to the right of the petitioner to make any fresh reference if he is otherwise entitled so to do. The Chairperson shall cause the buyer to furnish his detailed response to the reference.
- (5) Such references shall be accompanied with facilitation charges as per rule 6 or as notified or amended by the Government from time to time.
- (6) Each reference must be accompanied with an undertaking that the supplier or petitioner has not filed a reference or petition before any Civil Court in the same dispute.
- (7) Upon receipt of reference from the supplier, the Secretariat of the Council shall enter the data in the web portal created for the purpose.
- (8) After entering the data, acknowledgment of the receipt of reference shall be issued by the Secretariat to the applicant Micro, Small Entrepreneur unit through mail.
- (9) On receipt of a reference under section-18, the Chairperson shall ensure that 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. The Council shall, if it is satisfied that on the facts stated therein, it has jurisdiction to proceed with the reference and that the petitioner is entitled under the Act to make reference, cause a copy of the statement of claim to be sent by registered post to the respondent along with copies of the attached documents and issue notice in Form 2 asking him to furnish 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, a response to the reference in Form 3 with such documents and facts in support of his defence or having bearing on the matter under reference.
- (10) The mode of service of notice to parties shall be as per law.
- (11) The Council shall either itself conduct conciliation in the matter or seek the assistance of any institute for conducting the conciliation or may form sub-committee involving the Heads of the concerned Industrial associations with at least one member of the Council.

- (12) The institute or sub-committee after conducting the conciliation shall submit its report to the Council within a period of fifteen days.
- (13) 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 arbitration or refer it to an 'institute' or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of the said Act. If the matter is referred to the institute, the institute shall arbitrate the issue as per the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) and recommend the award to the Council.
- (14) The Council shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act, 1996 (26 of 1996) within the time 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.

Section 21. **6. Facilitation charges.-** Every reference/application under rule 5 shall be accompanied by a fee of 0.05 percent of the submitted claim or Rs. Five Thousand, whichever is higher, which shall be paid in the shape of demand draft in favour of the concerned Council or such other mode of payment as may be specified by the Government.

Section 21. **7. Maintenance of Accounts: -** The Secretariat Office of the Council shall maintain the accounts of receipt, payments and expenditure incurred. It shall also maintain record of administrative or other misc allowances sanctions for expenditure given by the Chairman for the smooth functioning of the Council work. The Council shall get its annual accounts audited from Comptroller and Auditor General (CAG) empanelled Charter Accountants (CA's).

Section 21. **8. Transfer of Funds: -** The Government may allow transfer of funds amongst the Councils and concerned branch in the office of Director, Industries and Commerce as per requirement for administrative work, including setting up of an online mechanism for the District Level /State Level Councils. Such account shall be maintained as per rule 7.

Section 21. **9. Meetings of the Council and Quorum: -** (1) The meeting of the Council shall be ordinarily held after giving seven days notice. However, an urgent meeting can be called at such short notice as the Chairperson may consider.

- (2) The notices/communication for the meeting shall be sent/given to the petitioner and respondent through registered post or SMS or email.
- (3) The Council shall hold regular meetings, at least twice a month.
- (4) The presence of three members of Council shall form a quorum.

Section 21. **10. Decisions of the Council: -** (1) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.

- (2) Every reference made under section 18 to the Council shall be decided within a period of ninety days from the date of making such a reference.
- (3) The Secretariat office shall 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, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five per cent of the amount in terms of the decree, award or, the other order, as the case may be, in the manner directed by such court.

11. Appointment of Arbitrator :- (1) The Government, if it finds necessary, may be form a panel of expert of Arbitrators from amongst the names of retired Judicial Officers (i.e District and Sessions Judges) and retired Group-‘A’ Government Officers having minimum three years experience of dealing with such cases, as it may consider necessary. A panel of Arbitrators for each district shall be drawn by the Chairman of each Council from amongst these empanelled Arbitrators. Section 18 and 21.

(2) The Arbitrator so empanelled shall provide an alternate dispute resolution services, as per sub-section (3) of section-18 and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of the Arbitration and Conciliation Act, 1996.

(3) The Arbitrator shall have jurisdiction to act as Arbitrator or Conciliator under sub-section (4) of section 18 of the Act in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(4) Every reference made under section 18 of the Act shall be decided within a period of ninety days from the date of making such reference.

(5) The Arbitration fee to be levied by the Arbitrator shall be at such rates as may be approved/notified by the Government and shall be shared by both the applicant and the respondent.

(6) The Arbitrator shall recommend the report to the Council for consideration and passing of Award.

12. Progress report: - (1) The Council shall upload the basic information including the annual progress report of the Council on the web portal created for the purpose. Section 21.

(2) The Council shall provide information to the Member Secretary of the National Board for Micro, Small and Medium Enterprises established under section 3 of the Act in such manner and form as may be required from time to time.

(3) All the proceedings of the Council of the concerned district shall be uploaded on the web portal in such manner and form as may be required from time to time.

13. Saving clause: - The proceedings already initiated under Chapter-V of the Act by the State Level MSE-Facilitation Council or District Level Micro, Small Enterprises Facilitation Council shall continue unabated. Section 21.

14. Removal of difficulties: - If any difficulty arises during the course of implementation of these rules, the same shall be clarified by the Government. Section 21.

Chandigarh
The 20th September, 2021

HUSSAN LAL, IAS
Principal Secretary to Govt. of Punjab
Department of Industries & Commerce.

Form 1

[See rule 5(2)]

Reference/ Application

1. Form and enclosures to be submitted in quadruplicate. Photocopies, if any, submitted along with the Form, should be attested by a Gazetted Officer.
2. In case of several deliveries/ particulars under the same contract, the relevant particulars may be in the form of an attached statement.

Before the District Level Micro and Small Enterprises Facilitation Council at *(name of the district)*.

1. Name of the petitioner.
2. Full postal addresses along with telephone and Email of the petitioner/seller.
3. Name of the respondent/buyer.
4. Full postal addresses along with telephone and Email of the respondent Buyer.
5. Micro, Small Enterprise Entrepreneur Memorandum along with acknowledgement of the petitioner (copy of Entrepreneur Memorandum with acknowledgement to be closed/Udyog Aadhaar Number/Udyam Registration Number along with copy of Adhar Card).
6. Particulars of the purchase order/contract with the respondent seller in respect of which the amounts are claimed (copy of the purchase order/ contract to be closed)/Invoice.
7. Date on which the goods were delivered or services rendered to the seller (attach evidence of delivery).
8. Date of acceptance of the goods/services or the date of deemed acceptance (attach copies of documents evidence).
9. Amount due for the goods delivered (attach copies of bills/invoices).
10. Date on which the payment is due or deemed to be due;
11. Amounts and dates of receipts of payments, if any.
12. Interest claimed under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) upto the date of reference (attach calculations) duly verified by CAG empanelled CA.
13. Total amount claimed up to the date of reference.
14. Brief recital of facts of the case.
15. Remedies sought.
16. Particulars of fee deposited and details thereof.

Signature of Petitioner

Form 2*[See rule 5(a)]***Before the District Level Micro and Small Enterprises Facilitation Council at (name of the district).**

(Established pursuant to section 20 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

Reference No.

To: The respondent above named.

Subject: Notice for calling response to the reference in the case of M/s

Petitioner

The above named petitioner has made a reference under sub-section (1) of section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), to this Council for acting as an arbitrator in respect of the amounts claimed.

You are hereby called upon to furnish, within fifteen days of the receipt of this notice, your response to the reference in Form 3 specified under the District Micro and Small Enterprises Facilitation Council Rules, 2007, together with:-

- (a) Such documents and facts in support of your defence or having a bearing on the matter under reference

A copy of the statement of claim together with the documents submitted therewith is enclosed.

In case you desire to challenge any of the members under sections 12 and 13 of the Arbitration and Conciliation Act, 1996 (26 of 1996), you may send a written statement of the reasons for the challenge within seven days of the receipt of this notice.

Disclosures made under rule 8 read with sub-section (1) of section 12 of the Arbitration and Conciliation Act, 1996 (26 of 1996), from the members is enclosed herewith.

If your response to the claim reference is not received within the time allowed, the Council shall proceed ahead.

For Chairperson
DLMSEFC

Form 3*[See rule 5(a)]***Response to the reference**

1. Form and enclosures to be submitted in quadruplicate. Photocopies, if any, submitted along with the Form, should be attested by a Gazetted Officer.
2. A copy of the response to the reference is to be sent to the petitioner simultaneously.

Before the District Level Micro and Small Enterprises Facilitation Council at *(name of the district)*.

1. Name of the petitioner seller.
2. Name of the respondent buyer.
3. Full postal address of the respondent buyer.
4. Whether the respondent buyer admits or denies the claim of the petitioner.
5. Brief response to the reference (attach document and facts in support of defence or having a bearing on the matter under reference).

Signature of the Respondent