

GOVERNMENT OF KARNATAKA

NO: CI 377 CSC 2006

Karnataka Government Secretariat,
Vikasa Soudha,
Bangalore, dated 07-03-2007.

NOTIFICATION

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 [Central Act 27 of 2006], the Government of Karnataka hereby makes the following rules, namely:-

PRELIMINARY

1. Title and Commencement:- [1] These rules may be called the Karnataka State Micro and Small Enterprises Facilitation Council Rules, 2007.

[2] They shall come into force with effect from the date of publication of these rules in the official Gazette.

2. Definition:- [1] In these rules, unless the context otherwise requires,-

[a] "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 [Central Act 27 of 2006].

[b] "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 [Central Act 26 of 1996]

[c] "Chairperson" means the Chairperson of the Council appointed under clause [i] of sub-section [1] of section 21 of the Act;

[d] "Council" means the Micro and Small Enterprises Facilitation Council, established by the State Government under section 20 of the Act.

[e] "Government" means the Government of Karnataka.

[f] "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.

[g] "Member" means a member of the Council.

[h] "Section" means a section of the Act.

[2] The words and expressions used in these rules but not defined shall have the same meaning assigned to them in the Act.

3. Manner of appointment to the Council:- [1] The Government shall by notification appoint the representatives, specified in clauses [ii], [iii] or [iv] of sub-section [1] of section 21, as member of the Council.

[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, by notification in the official gazette, appoint a person to fill that vacancy.

[3] A member, other than the Chairperson, shall hold office for a period not exceeding two years from the date of his appointment.

[4] A member appointed under sub-rule [1] shall cease to be a member of the council, if he ceases to represent the category or interest from which he was so appointed to the council.

[5] The member of the Council may resign from the Council by tendering resignation by giving one month's notice in writing to the Government. The power to accept the resignation of a member shall vest in the Government. The resignation shall take into effect on the date of acceptance by Government.

[6] The Government may remove any member from the Council: -

[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 involves moral turpitude; or

[d] if he absents himself from three consecutive meetings of the council without the leave of the Chairperson, and in any case not exceeding five consecutive meetings; or

[e] acquire such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

4. Procedure of the Council:- [1] The Council shall meet at least once in a month.

[2] 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.

[3] 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.

[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, 1996, for assistance in taking evidence.

[5] The reference or the application of the aggrieved micro or small enterprise supplier [hereinafter referred to as petitioner] shall contain full particulars of the supplier and 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. The Chairperson of the council may require the 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 so to do. The petitioner shall also simultaneously send a copy of the reference to the buyer or buyers against whom the reference is directed.

[6] The reference or the application shall be acknowledged forthwith if it is delivered at the office of the Council. Where the reference or the 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.

[7] 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 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 proceeding 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 or center providing alternate dispute resolution services by making a reference to such an institution or center, for conducting conciliation. The provisions of Sections 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.

[9] The Council or the institute to which reference 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.

[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 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, 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.

[11] Any decision of the Council shall be made by the majority of its members present at the meeting of the Council.

[12] The Council shall make an award in accordance with section 31 of the Arbitration and Conciliation Act, 1996 and 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.

[13] The Chairperson 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.

By order and in the name of the
Governor of Karnataka,

[M.Shivalingaswamy]
Under Secretary to Government,
Commerce and Industries Department

To,

1. The Compiler, Karnataka Gazette, Bangalore to Publish in Special gazette today and supply 500 copies to the Under Secretary to Govt [SSI], Commerce and Industries Department, Room No. 121, 1st floor, Vikasa Soudha, Bangalore.
2. The Development Commissioner [SSI], Ministry of SSI, GoI, 'A' Wing, 7th floor, Nirman Bhavan, New Delhi-110011.
3. The Principal Secretary to Hon'ble Chief Minister,
4. The PS to Hon'ble Minister for Large and Medium Industries,

5. The PS to Hon'ble Minister for Small Scale Industries,
6. The PS to Hon'ble Minister for Law and Parliamentary Affairs,
7. The Chief Secretary to Government of Karnataka,
8. The Principal Secretary to Government, Finance Department,
9. The Principal Secretary to Government, Infrastructure Development Department,
10. The Principal Secretary to Government, Commerce and Industries Department,
11. The Principal Secretary to Government, Revenue Department,
12. The Principal Secretary to Government, Energy Department,
13. The Principal Secretary to Government, Urban Development Department,
14. The Principal Secretary to Government, Public Works Department,
15. The Secretary to Government, Food Processing & Post Harvest Technology Department,
16. The Secretary to Government, Parliamentary Affairs & Legislation,
17. The Secretary to Government, Commerce & Industries Department,
18. The Secretary to Government, IT & BT Department, 5th Wing, M.S. Building, Bangalore.
19. The MD, Karnataka Small Scale Industries Development Corporation, Industrial Estate, Rajajinagar, Bangalore.
20. The MD, KPTCL, Cauvery Bhavan, Bangalore-9,
21. The CEO & EM, KIADB, Nrupatunga Road, Bangalore-1,
22. The Commissioner for Industrial Development and Director of Industries & Commerce, Khanija Bhavan, 49, Race Course Road, Bangalore-1,
23. The MD, KSFC, Thimmaiah Road, Bangalore-52,
24. The MD, Karnataka Udyog Mitra, Khanija Bhavan, No. 49, Race Course Road, Bangalore-1,
25. The Convener, SLBC & GM, Syndicate Bank, 1st floor, No. 69, 9th Main Road, 3rd Block, Jayanagar, Bangalore-21.
26. The President, KASSIA, 2/106, 17th Cross, Magadi Chord Road, Vijayanagar, Bangalore-40,
27. Guard File / Office Copy / Extras.