

Govt. Of Bihar

Department of Industries

Rules of Micro and Small Enterprises Facilitation Council(MSEFC) under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006)-  
No.3009 Dated the 25th Sept. 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 of Bihar hereby makes the following rules namely Micro and Small Enterprises Facilitation Council Rules, 2007( M.S.E.F.C) The Headquarter of the council will be at the Department of Industries, Vikas Bhawan, Patna. The Director of Industries will exercise the provisions of the Rules in whole of Bihar.

**1 Name , Effect and extend:-**

- (i) The rules will be called Micro and Small Enterprises Facilitation Council Rules, 2007.
- (ii) They shall come in to force with immediate effect.
- (iii) They shall extend to the whole of Bihar state.

**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) "Section "means a section of the Act.
- (c) "Arbitration" and Conciliation Act" means the Arbitration and Conciliation Act, 1996(26 of 1996).
- (d) "Council" means the Micro and Small Enterprises Facilitation Council established by Bihar State under section 20 of the Act.
- (e) "Institute" means any institution or center providing alternate dispute resolution service referred to in sub-section (2) and (3) of section 18 of the Act.
- (f) "Chairperson" means the chairperson of the council appointed under clause (i) of sub-section (1) of section 21 of the Act.
- (g) "Member" means a member of the Council..
- (h) "Government" means the Govt. of Bihar.
- (i) The words and expressions used and not defined but defined in the Act shall have the meaning assigned to them in the Act.

**3. Constitution of Council :**

Council would constitute of the following members:-

- |   |          |
|---|----------|
| 1. Director of Industries ,Bihar  | Chairman |
| 2. Convener, State Level Bankers Committee(S.B.I.)  | Member   |
| 3. President, Bihar Chamber of Commerce & Industries  | Member   |
| 4. President, Bihar Industries Association  | Member   |
| 5. Additional Secretary/Joint Secretary/ Representative of Secretary, Law Department<br>(Not below the rank of Joint Secretary) | Member   |

**4. Tenure of Office for the Members :**

The tenure of Office for each member except Chairperson of the council shall normally be two years as specified in clauses of the Act.

- (i) In case, 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 member, the Govt. may be notification in the official gazette appoint a person to fill that vacancy.
- (ii) A member other than the Chairperson shall hold office for a period not exceeding two years from the date of his appointment.
- (iii) 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.
- (iv) Any member of the Council may resign from the Council by tendering one month's notice in writing to the Govt. The power to accept the resignation of a member shall vest in the Govt.
- (v) The Govt. 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 of any offence which is punishable under the Indian Penal Code (Act XLV of 1860) or
  - (d) 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



- (e) Acquires such financial or other interests as in likely, in the opinion of the Govt. to affect prejudicially his function as member.

**5. Procedure to be followed in discharge of function of the Council :**

The Council so constituted shall first make efforts to bring about the conciliation between the buyers and sellers and where ever such conciliation does not materialize, the M.S.E.F.C. shall act as an Arbitrator for settling the dispute by allowing the provision of the Arbitration and Conciliation Act 1996 (26 of 1996).

- (i) 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.
- (ii) 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.
- (iii) 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..
- (iv) The reference/ application of the aggrieved Micro or Small Enterprises supplier shall contain full particulars of the supplier and its stature, supplied dgoods or services, terms of payment, if any, agreed between the supplier and buyers, 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 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
- (4) . to do so within fifteen days of receipt of such communication or within such further time as the Chairperson may, for sufficient causes 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.
- (v) The reference/application shall be acknowledged 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. 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.
- (vi) On receipt of the reference under section 18 of the Act, the Chairperson of the Council shall cause the reference and the buyer's response thereto to be examined and on being satisfied with the reference making a prima facie of delayed payment, causes the reference to be placed before the Council as 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.
- (vii) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation." The provision 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.
- (VIII) 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 effort 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.
- (IX) 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 proceeding. The institute shall submit its report to the Council within such time as the Council may stipulate.
- (X) Any decision of the Council shall be made by majority of its member present at the meeting of the Council.
- (XI) The Council shall make an arbitral 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.

(XII) The provision of section 15 to 23 of the Act shall have effect, not withstanding anything inconsistent therewith contained in any other law for the time being in force.

**6. Meeting of the Council :**

The Council shall hold meeting at least once in three months for transiting its business.

**7. Quorum :**

The Chairperson and any two members of the Council shall form the quorum.

**8. Jurisdiction :**

The Council shall have jurisdiction through out the State of Bihar. No T.A./DA shall be paid to the members of the Council.

**9. Chairman of the Council :**

Chairman shall preside over all the meetings of the Council and in his absence the member nominated by the Chairman for said meeting shall persuade over the meeting.

**10. Member Secretary :**

The Member Secretary of the Council shall maintain a register of all the cases where in payments have been made and shall perform all other functions of the M.S.E.F.C. or as the Chairman direct to from time to time.

**11. Fee for processing the application for setting the dispute :**

The party making a request to the Council shall pay an amount of Rs. 500/- or 0.25% of the value involved, maximum or Rs.5000/- (Rupees Five Thousand) only whichever is higher, along with the application for setting the dispute.

**12. Power to amend the rules :**

The State Govt. however may from time to time amend or vary and substitute the notification.

**13. Order :**

It is ordered that a copy of the resolution should be sent for publication in the special edition of the Bihar Gazette, Reputed journals and Newspapers and be circulated among all the Departments / Departmental heads and subordinates officials of the Government.

By the order of the Governor of Bihar

(S. Vijayaragavan)

Principal Secretary  
Department of Industries  
Bihar, Patna

Momo No.

Patna, Dated

Copy with enclosure forwarded to the Superintendent, Government press Guizarbag, Patna for its publication in the special edition of Bihar Gazette. He is also directed to make available 1000 copies of the same, to the Department.

(S. Vijayaragavan)

Principal Secretary  
Department of Industries  
Govt. of Bihar

Momo No. -3009

Patna,

Dated-25.09.2007

Copy with enclosure forwarded to all Departments/Departmental Heads/Commissioner, Commercial taxes, Department of Commercial Taxes/Managing Director, All Corporations, under Department of Industry/Bihar Industrial Development Authority/Chief Executive officer Bihar Khadi Village Industries Board Patna/Chairman, Bihar State Electricity Board, Patna / All commissioners/All District Magistrates/All Deputy Development Commissioners/All General managers, District Industry Office/Derector, Technical Development/Director Industry/Residet Commissioner, Bihar Bhawan, New Delhi/Director Micro Small & Medium Enterprises Development Institute, Patliputra Colony, Patna/Muzaffarpur for information and needful action.



(S. Vijayaragavan)

Principal Secretary  
Department of Industries  
Govt. of Bihar