

Ind.A(F)19-21/2005 DATED 12-10-2007 AS REQUIRED UNDER  
ARTICLE 348 (3) OF THE CONSTITUTION OF INDIA)

Government of Himachal Pradesh,  
Industries Department

**No. Ind.A(F)19-21/2005**

**Dated:** 12-10-2007

**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 (27 of 2006), the Governor of Himachal Pradesh, is pleased to make the following rules for carrying out the purposes of the said Act, namely:

1. Short title, extent and commencement These rules may be called the Himachal Pradesh Micro and Small Enterprises Facilitation Council Rules, 2007.
- (2) These rules shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.
- (3) These rules shall extend to the whole of Himachal Pradesh.

**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 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 Government of Himachal Pradesh under section 20 of the Act;
  - (e) "Government" means the Government of Himachal Pradesh;
  - (f) "Institute" means any institution or centre providing alternate dispute resolution services referred to in sub section (2) and (3) of section 18 of the Act;
  - (g) "Member(s)" means the members of the Council; and
  - (h) "Section" means a section of the Act.

2 The words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

**3. Manner of appointment of Member(s) and filling up of vacancies -a)**

The Government shall appoint the Member (s) as per clauses (ii), (iii) or (iv) of sub section (1) of section 21 of the Act.

b) When a Member dies or resigns 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 up by the resultant vacancy.

c) Any Member may resign from the Council 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.

d) The Government may remove any Member from office,

(i) if he is of unsound mind and has been so declared by a competent court ; or

(ii) if he becomes bankrupt or insolvent or does not make payment to his creditors; or

(iii) if he is convicted of any offence which is punishable under the Indian Penal Code (Act XLV of 1860); or

(iv) if he remains absent from three consecutive meetings of the Council without the leave of the Chairperson, and from five consecutive meetings even with the permission of the Chairperson ; or

(v) acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a Member

**4. Procedure to be followed in the discharge of functions of the Council - (1)**

The Council shall meet at least once a month, or as and when it may be required to meet to dispose of any case received.

(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 deem appropriate.

(3) The Council may 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 of the aggrieved micro or small enterprise supplier shall be made to the Chairperson at his office and it 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 stamps affixed thereon. The Chairperson may require any petitioner to provide further particulars of the claim or any relevant document 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 has been directed.

- (6) The reference 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 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 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 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 meeting.
- (8) 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 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 the said Act.

- (9) 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 the parties, the Council or the institute, as the case may be, 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 the conciliation mentioned in sub rule (9) above 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 arbitration, in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The supplier and the buyer may, either in person or through their legal representatives, present his case before the Council or the institute during the arbitral 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 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 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. The 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 constituted under sub section (2) of section 7 of the Act.

By order

Paminder H. Mathur  
Additional Chief Secretary (Industries)  
to the Govt. of Himachal Pradesh

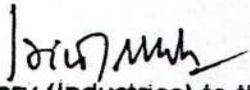
Dated 12-10-2007

Endst. No. Ind.A(F)19-21/2005

Copy to the following for favour of information and necessary action:

- 1 The Development Commissioner (Micro, Small and Medium Enterprises), Ministry of Micro, Small and Medium Enterprises, 'A' Wing, 7<sup>th</sup> Floor, Nirman Bhawan, New Delhi-110011.

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- 2 All Administrative Secretaries to the Government of Himachal Pradesh.
  - 3 All Heads of the Departments in Himachal Pradesh.
  - 4 All General Managers, District Industries Centre in Himachal Pradesh.
  - 5 The Director, MSME Development Institute, Electronics complex,  
Chambaghat, Solan, District Solan, H.P.
  - 6 All Industrial Associations in Himachal Pradesh and Industrial  
Association outside the Himachal Pradesh representing the industrial  
units set up in the State.
  - 7 The Controller, Printing and Stationery Department Himachal Pradesh  
with the request to publish the above notification in Rajpatra (Extra -  
Ordinary), Himachal Pradesh.

  
Under Secretary (Industries) to the  
Government of Himachal Pradesh.