

UTTAR PRADESH SHASAN

Laghu Udyog Anubhag-5

In pursuance of the provisions of clause (3) of Article 348 of the constitution, the Governor is pleased to order the publication of the following English translation of notification NO.68./18-5-2007-60(S.P)/2006, dated January 19, 2007.

NOTIFICATION

No. 68 /18-5-2007-60(S.P)/2006

Dated: Lucknow: January, 19, 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 (Act. no.27 of 2006), the Governor is pleased to make the following rules namely:-

THE UTTAR PRADESH STATE MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL RULES, 2006

- Short title and commencement 1-(1) These rules may be called the Uttar Pradesh State Micro and Small Enterprises Facilitation Council Rules, 2006
- (2) They shall come into force with effect from the 19 day of 01 (month) 2007 (year)
- (3) They shall extend to the whole of Uttar Pradesh.

- Definitions: 2-In these rules, unless the context otherwise requires-
- (a) "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (Act no. 27 of 2006);
- (b) "Section" means a section of the Act;
- (c) "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (Act no. 26 of 1996);
- (d) "Council" means the Micro and Small Enterprises Facilitation Council, established by the Government of Uttar Pradesh under section 20 of the Act;
- (e) "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;
- (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 State Government of Uttar Pradesh;
- (i) The words and expressions used and not defined, but defined in the Act shall have the meanings assigned to them in the Act.

- (j) The words and expressions not defined in the rules and Act shall have the meaning assigned to them in General Clauses Act.

Appointment of members. 3-(1) The Government shall appoint the representatives, specified in clauses (ii), (iii) or (iv) of sub-section (1) of section 21 of the Act, as members 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 Gazette appoint a person to fill that vacancy.

Terms of office of a member. 4(1) A member, other than the Chairperson, shall hold office for a period not exceeding two years from the date of his appointment.

- (2) A member appointed under clauses (ii), (iii) and (iv) of sub-section (1) of section 21 of the Act shall cease to be a member of the council if he ceases to represent the category or interest from which he was so appointed.
- (3) A 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.

Removal of a member. 5- The Government may remove a member from office,

- (i) if he is of unsound mind and stands so declared by a competent court;
or
- (ii) if he becomes bankrupt or insolvent or suspends 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 absents himself from three consecutive meetings of the council without the leave of the Chairperson, and in any case from five consecutive meetings; or
- (v) acquires such financial or other interest as is likely, in the opinion of the Government, to effect prejudicially his functions as a member.

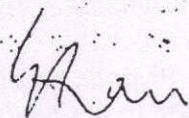
6- The following procedure shall be followed by the council in the discharge of its functions:-

- (i) The Council shall meet at least once a month.
- (ii) 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.
- (iii) 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.
- (iv) 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.

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- (v) The reference/application of the aggrieved micro or small enterprise supplier 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 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 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.
- (vi) 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 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.
- (vii) 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 immediate 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 immediate meeting.
- (viii) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of the 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 that Act.
- (ix) 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

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.

- (x) 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 proceedings. The Institute shall submit its report to the Council within such time as the Council may stipulate.
- (xi) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council. Quorum for meetings of the Council shall be Chairperson and at least two members.
- (xii) 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 any application.
- (xiii) The provisions of sections 15 to 23 of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
- (xiv) The Chairperson or any other officer authorised 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 (3) of the section 7 of the Act.


(Govindan Nair)
Principal Secretary.