

THE UTTAR PRADESH MICRO, SMALL AND MEDIUM ENTERPRISES

ACT, 2020

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Dated Lucknow, August 31, 2020

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 the Uttar Pradesh Sukshm, Laghu Evam Madhyam Udyam (Sthapan Evam Sanchalan Sarlikaran) Adhiniyam, 2020 (Uttar Pradesh Adhiniyam Sankhya 30 of 2020) as passed by the Uttar Pradesh Legislature and assented to by the Governor on August 28, 2020. The Sukshm, Laghu Evam Madhyam Udyam Anubhag-2, is administratively concerned with the said Adhiniyam.

**THE UTTAR PRADESH MICRO, SMALL AND MEDIUM ENTERPRISES
(FACILITATION OF ESTABLISHMENT AND OPERATION) ACT, 2020
(U.P. Act no. 30 of 2020)
[As passed by the Uttar Pradesh Legislature]
AN
ACT**

to provide for exemption from certain approvals and inspections required for establishment and operation of Micro, Small and Medium Enterprises, for initial years of establishment and operation in the State and matters connected therewith and incidental thereto.

Preamble: WHEREAS, with a view to promote inclusive economic growth and employment generation in the State by addressing specific needs of the Micro, Small and Medium Enterprises (MSME) and to promote entrepreneurship, it is expedient to give effect to exemption from certain approvals and inspections required to facilitate the establishment and operation of Micro, Small and Medium Enterprises in the State and matters connected there with and incidental thereto.

IT IS HEREBY enacted by the Uttar Pradesh State Legislature in the Seventy-first year of the republic of India, as follows:-

1. (1) this act may be called the Uttar Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020.
- (2) It extends to the whole of the State of Uttar Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification in the Gazette, appoint.

**Short title, extent
and
commencement**

Definitions

2. In this Act, unless the context otherwise requires,-
 - a. "Act" means the Uttar Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020;

b. "Acknowledge Certificate" means the Acknowledgement Certificate issued under section 8 of the Act;

c. "Approval" means permission, no-objection, clearance, consent, approval, registration, license and the like, require under any Uttar Pradesh Law in connection with the establishment or operation of an enterprise in the State of Uttar Pradesh;

d. "Competent Authority" means any department or agency of the Government or a local authority, statutory body, state owned corporation, Panchayati Raj Institution, Municipality, Urban Development Authorities, Urban Improvement Trust or any other authority or agency constituted or established by or under any Uttar Pradesh law or under administrative control of the Government, which is entrusted with the powers or responsibilities to grant or issue approval for establishment or operation of an enterprise in the State;

e. "Declaration of Intent" means intention to establish/expand/diversify an enterprise, expressed through furnishing the information and submitting (either in physical or electronic format) on the format as annexed herewith as Annexure no.-1, along with required documents;

f. "Enterprise" means micro, small or medium enterprise;

g. "Micro, Small or Medium Enterprise" means a Micro, Small or Medium Enterprise, as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act No. 27 of 2006), as amended from time to time;

h. "Government" means the State Government of Uttar Pradesh;

i. "State" means the State of Uttar Pradesh;

j. "Commencement of Commercial Operation" means the date on which the enterprise issues the first bill of supply/ invoice/tax invoice, of the goods manufactured or services rendered relating to declaration of intent furnished under this Act;

k. "New enterprise" means such Micro, Small or Medium Enterprise whose date of commencement of commercial operation is on or after the date of commencement of the Act. It also includes expansion/ diversification by existing enterprises wherein they increase their gross block by at least 25 per cent through new capital investment;

l. "Nodal Agency" means the Nodal Agency established under section 5 of the Act;

m. "Notification" means a notification published in the Gazette of the State of Uttar Pradesh and the word 'notified' shall be construed accordingly.

Empowered Committees

3. The Government shall by notification establish two empowered committees, as follows:-

(1) High level State Empowered Committee (HSEC): Under the chairmanship of Chief Secretary, Uttar Pradesh, having such members as may be notified from time to time. Additional Chief Secretary /Principal Secretary/Secretary, Department of Micro, Small and Medium Enterprise (MSME) & Export Promotion, Government of Uttar Pradesh being the Member

Secretary of the such committee.

(2) District Level Empowered Committee (DLEC): Under the Chairmanship of District Magistrate of concerned district, having the following members :-

1. Sub Divisional Magistrate (Concerned)	Member
2. Regional Officer, U.P. Pollution Control Board	Member
3. Executive Engineer, U.P. Power Corporation Ltd.	Member
4. Deputy Labour Commissioner/Assistant Labour Member Commissioner	Member
5. Regional Manager, U.P. State Industrial Development Corporation (UPSIDC)	Member
6. Assistant Director, Directorate of Electrical Safety	Member
7. District Fire Safety Officer	Member
8. Deputy Commissioner, District Industry and Enterprise Promotion Center (DIEPC)	Member/Secretary

4. (1) High level State Empowered Committee (HSEC) shall address the inter-departmental policy level issues which are necessary to give effect to the provisions of the Act. Issues shall be referred to High Level State Empower Committee (HSEC) by the State Level Nodal Agency (SLNA).

Functions of the Empowered Committees

(2) District Level Empowered Committee (DLEC) shall approve/ reject the Declaration of Intent filed (either in physical or electronic format) with District Industry and Enterprise Promotion Center (DIEPC) for the purpose of issuance of Acknowledgement Certificate.

5. The following shall be the nodal agencies for the purpose of this Act :

Nodal Agencies

(1) State Level Nodal Agency (SLNA): Subject to the superintendence, direction and control of the Government and the High level State Empowered Committee (HSEC), the Directorate of Industries, Department of Micro, Small and Medium Enterprise (MSME) & Export Promotion, Government of Uttar Pradesh shall be the State level Nodal Agency for the purpose of this Act.

(2) District Level Nodal Agency (DLNA): Subject to superintendence, direction and control of the Government and the District Level Empowered Committee (DLEC), District Industry and Enterprise Promotion Center (DIEPC) shall be the District Level Nodal Agency for the purpose of this Act.

6. The powers and functions of the nodal agencies shall be as follows:-

Functions of the Nodal Agencies

(1) State Level Nodal Agency (SLNA) shall address the issues referred to it by District Level Empowered Committee (DLEC)/ District Level Nodal Agency (DLNA). If any issue relates to policy making or inter-departmental level, State Level Nodal Agency (SLNA) shall refer it to the High level State Empowered Committee (HSEC) for guidance.

(2) District Level Nodal Agency (DLNA) shall assist and facilitate establishment of enterprises in the State through issuance of Acknowledgement Certificate on the recommendations of the District Level Empowered Committee (DLEC) as defined in section 8 of the Act. The District Level Nodal Agency (DLNA) shall also maintain the record of Declaration of Intent received and Acknowledgement Certificate issued under this Act.

(3) The Government may by notification in the Gazette assign such other powers and functions to the Nodal Agencies as it may deem fit for giving effect to the provisions of this Act.

**Filing of
Declaration of
Intent**

7. (1) Every new enterprise seeking Acknowledgement Certificate under the Act shall furnish a duly filled Declaration of Intent to District Level Nodal Agency (DLNA) on the format as annexed herewith as Annexure no.-I along with the following documents:-

- (a) Land related application forms [in accordance with Uttar Pradesh Revenue Code, 2006 (U.P. Act no. 8 of 2012)]
- (b) Electrical Safety related application form ;
- (c) Pollution related application form ;
- (d) Labour related application form ;
- (e) Fire Safety related application form;

(2) The Declaration of Intent shall be submitted by the Managing Partner, in case of proprietary enterprise; the Authorized Partner in case of partnership enterprise; and the authorized person in case of other forms of enterprises. In case the enterprise is having commercial operations on more than one premise, a Declaration of Intent shall be submitted for each such premises, separately.

(3) On receipt of a Declaration of Intent completed in all respects, the Deputy Commissioner, District Industry and Enterprise Promotion Center (DIEPC), as the Member Secretary of the DLEC, shall analyse the declaration under the provisions of this Act. Additionally, forms received with the Declaration of Intent pertaining to other departments shall be made available to the concerned departments online. After 72 hours of receiving of application, meeting of the District Level Empowered Committee (DLEC) shall be held under the Chairmanship of the District Magistrate. In case the District Level Empowered Committee (DLEC) meeting is not convened within 72 hours of receiving the application, approval on Declaration of Intent shall be sought through circulation.

**Grant
Acknowledgment
Certificate**

8. (1) All the applications received by Deputy Commissioner, District Industry and Enterprise Promotion Center (DIEPC)/Member Secretary of District Level Empowered Committee (DLEC), along with all related documents, shall be placed before District Level Empowered Committee (DLEC) for deliberating and deciding on issuance of the Acknowledgment Certificates.

(2) Acknowledgment Certificates shall be issued by Deputy Commissioner, District Industry and Enterprise Promotion Center (DIEPC), on the recommendations of District Level

Empowered Committee (DLEC) in the format as annexed herewith as Annexure no.2:-

(a) All acknowledgements shall be uploaded on Nivesh Mitra portal of the State Government;

(b) On receipt of building plan approval request of the applicant/enterprise in the format prescribed by the development authorities, as per their master plan, permission shall be granted within the stipulated time period;

(c) Regarding the land, in accordance with the Uttar Pradesh Revenue Code, 2006, (U.P. Act no. 8 of 2012) the District Level Nodal Agency (DLNA) shall issue the required approval within 72 hours of receiving the completed application complete in all respects for agricultural land use change and land ceiling No-Objection Certificate (NOC). This shall be done after approval of District Level Empowered Committee (DLEC). In case District Level Empowered Committee (DLEC) meeting is not convened within 72 hours of receiving the application, approval on Declaration of Intent shall be sought through circulation.

Explanation : Any Applicant/ enterprise who has moved to the Competent Authority to so obtain all or any of the approvals as defined in clause (c) of section 2 of this Act, before the commencement of this Act may also opt to furnish Declaration of Intent to start an enterprise under this section.

9. (1) An Acknowledgment Certificate issued under section 8 of this Act shall, for all purposes, have effect as if it is an approval as defined in clause (c) of section 2, for a period of 1000 days from the date of its issuance and after the expiry of the said period of 1000 days, the enterprise shall have to obtain required approvals as defined in clause (c) of section 2 within 100 days from the date of such expiry :-

**Effect and validity
of the
Acknowledgement
Certificate**

Provided, that the Acknowledgement Certificate shall not entitle a person or an enterprise to use a land in deviation to the land use as specified in the master plan wherever such plan is in force. It shall also not entitle a person or an enterprise to use the land falling in restricted category under various laws of the Government. Where the land is in the rural area and outside the master plan notified area, no agricultural land use conversion shall be required for a period of 1000 days wherein Acknowledgement Certificate is valid, and Land Ceiling Act shall also not be effective in such rural areas for starting an enterprise for a period of 1000 days wherein Acknowledgement Certificate is valid.

(2) During the period of 1000 days specified in sub-section (1), no competent authority shall undertake any inspection for the purpose of, or in connection with, any approval as defined in clause (c) of section 2.

(3) Except sections 8 and 15 of Industrial Development Area Act, 1976, all other sections shall be effective for the purpose of this Act.

10. Where the Government or any authority under it is capable of exempting an enterprise from any approval or inspection or any provision relating thereto, under any Central Act, the

**Grant of
Exemption**

Government, as the case may be any such authority, subject to the provisions of such Central Act, exercise such powers to grant such exemption to any enterprise established in the State for a period of not less than 1000 days from the date of issue of Acknowledgement Certificate under section 8.

11. This Act shall not be applicable on enterprises submitting Declaration of Intent to manufacture following items:-

Exception

- i. Tobacco products, gutka, panmasala *etc.*;
- ii. Alcohol, aerated drinks, carbonated products *etc.*;
- iii. Manufacturing of crackers;
- iv. Plastic carry bags of less than 40 microns or plastic carry bags of the thickness as classified in prohibited category from time to time by the State Government;
- v. Products notified under "Red Category" by Uttar Pradesh Pollution Control Board. However, industries categorised under "Orange" and "Green" category shall be eligible to establish and operate after getting due permissions from the Regional Office, State Pollution Control Board;
- vi. Other such products which are categorised in prohibitory list from time to time.

12. Wherever and whenever required, the Micro and Small Enterprises Facilitation Council as mentioned in the section 30 read with sub-section (3) of section 21 of Micro, Small and Medium Enterprises Development Act, 2006, shall be established for every division by the State Government through notification under the chairmanship of Divisional Commissioners. Joint Commissioner, Industries of the concerned division shall act as a member secretary of the council.

**Establishment of
Micro and Small
Enterprises
Facilitation
Council**

Savings

13. Subject to the provisions of section 10, nothing contained in this Act shall be construed as exempting any enterprise from the application of the provisions of any law for the time being in force, or any regulatory measures and standards specified thereunder, except to the extent expressly provided in this Act.

**Recovery of
Land Revenue
Arrears**

14. If an enterprise does not file any appeal under section 19 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 for setting aside any decree, award or other order made either by the Council itself or by any institution or centre or if such appeal is dismissed, in that situation such decree, award or order shall be executed by the concerned District Collector and the amount due shall be recovered as arrears of land revenue.

**Protection of
action taken in
good faith**

15. Taken in good faith 15. No suit, prosecution or other legal proceedings shall lie against the Government or Nodal Agency or Competent Authority or any employee of the Government, Nodal Agency or Competent Authority for anything which, is done or intended to be done in good faith, under this Act or any rules made thereunder.

**Power to remove
difficulties**

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order under this section shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

**Power to make
rules**

17. (1) The State Government may, by notification in the Gazette, make rules to carry out the provisions of this Act.

(2) All such rules made under this Act shall be laid, as soon as may be, after they are so made, before each House of the State Legislature, while it is in session, for a period not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of session immediately following, the House of the State Legislature make any modification in any such rules or resolves that any such rules should not be made, such rules shall, thereafter, have effect only in such modified form or be of no effect, as the case may be. Any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

STATEMENT OF OBJECTS AND REASONS

To promote inclusive economic development and employment generation in the State by addressing specific needs of the Micro, Small and Medium Enterprises (MSME) and promoting entrepreneurship. It has been decided to make to law to provide exemptions from certain approvals and inspections required for establishment and operation of Micro, Small and Medium Enterprises, for initial years of establishment and operation.

The Uttar Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Bill, 2020 is introduced accordingly.

By order
J.P. Singh-II,
Pramukh Sachiv.
