

[Translation in English of “2019-ലെ “കേരള ‘[സൂക്ഷ്മ-ചെറുകിട-ഇടത്തരം വ്യവസായ സ്ഥാപനങ്ങളും ഇതര വ്യവസായ സ്ഥാപനങ്ങളും] സുഗമമാക്കൽ ആക്ട്” published under the authority of the Governor.]

ACT 16 OF 2019

THE KERALA MICRO SMALL AND MEDIUM ENTERPRISES ²[AND OTHER ENTERPRISES] FACILITATION ACT, 2019*

An Act to provide for exemption from certain approvals and inspections required for the establishment and operation of micro small and medium enterprises ³[and to grant approval to other enterprises in a time bound manner] in the State and matters connected therewith and incidental thereto.

Preamble.—WHEREAS, it is expedient to give effect to exemption from certain approvals and inspections required for establishment and operation of micro small and medium enterprises ⁴[and to grant approval to other enterprises in a time bound manner] in the State and matters connected therewith and incidental thereto;

BE it enacted in the Seventieth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Micro Small and Medium Enterprises ⁵[and Other Enterprises] Facilitation Act, 2019.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) ⁶[“Certificate of in-principal approval”] means the ⁷[Certificate of in-principal approval] issued under sub-section (3) of section 5;

(b) “Appellate Authority” means the Appellate Authority constituted under sub-section (1) of section 12;

¹. Substituted by Act 32 of 2021 (w.e.f. 05.10.2020)

². Inserted by Act 32 of 2021 (w.e.f. 05.10.2020)

* Received the assent of the Governor on the 6th day of December, 2019 and published in the Kerala Gazette Extraordinary No. 3008 on 7th day of December, 2019.

³. Inserted by Act 32 of 2021 (w.e.f. 05.10.2020)

⁴. Inserted by Act 32 of 2021 (w.e.f. 05.10.2020)

⁵. Inserted by Act 32 of 2021 (w.e.f. 05.10.2020)

⁶. Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

⁷. Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

(c) “approval” means licenses, permissions, approvals, clearances, registration, consents, no objection certificate and the like, required under any State law in connection with the establishment or operation of micro small and medium enterprise ¹[and other enterprises] in the State;

²[(ca) “Bureau” means 'Investment Facilitation Bureau' constituted under section 6A;

(cb) “checklist” means list of documents, as may be prescribed, to be furnished by other enterprises along with composite application;]

(d) “Competent Authority” means any department or agency of the Government, statutory body, Corporation owned by State, Local Self Government Institutions, Urban Development Authorities, or any other Authority or Agency constituted or established by or under any State law or under the administrative control of the Government, which is entrusted with the powers or responsibilities to grant or issue approval for establishment or operation of enterprises in the State;

(e) “District Board” means the District Board constituted under section 4 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000);

(f) “enterprise” means micro small or medium enterprises;

(g) "Government" means the Government of Kerala;

(h) “micro, small or medium enterprises” means the micro, small or medium enterprises, as defined in the Micro Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006) ;

(i) “nodal agency” means nodal agency referred to in section 3;

(j) “notification” means a notification published in the Official Gazette of the Government of Kerala;

³[(ja) “other enterprise” means an enterprise as defined in clause (da) of section 2 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000) and shall not

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include the Micro Small and Medium Enterprises;]

(k) "prescribed" means prescribed by rules made under this Act;

(l) "State" means the State of Kerala;

(m) "State Board" means the State Board constituted under section 3 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000).

3. *Nodal Agency*.—The District Board constituted under section 4 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000) shall be the nodal agency for the purpose of this Act.

4. *Powers and functions of nodal Agency*.—Subject to the superintendence, direction and control of the Government, the powers and functions of the nodal agency shall be as follows, namely:—

(a) to assist and facilitate the establishment of enterprises in the State;

(b) to maintain the record of self certification and ¹[Certificate of in-principal approval] received under sub-section (3) of section 5;

(c) the Government may, assign such other powers and functions to the nodal Agency as it may deem fit for giving effect to the provisions of this Act.

5. *Filing of Self Certification*.—(1) Any person who intends to start an enterprise other than those not included as 'Red Category' by the Kerala State Pollution Control Board may, furnish before the nodal agency a Self Certification to start such an enterprise in such form and in such manner, as may be prescribed.

(2) If any person has filed any application before the competent authority to obtain all or any of the approvals as defined in clause (c) of section 2, before the commencement of this Act, such person may also opt to furnish self certification of intend to start an enterprise under sub-section (1) ;

(3) On receipt of a self certification completed in all respects, the nodal Agency shall, forthwith, issue ²[Certificate of in-principal approval], in the prescribed form, to the person who furnished the self certification under sub-section (1).

¹. Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

². Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

6. ¹[*Effect of the Certificate of in-principal approval*].—²[(1) Certificate of in-principal approval issued under sub-section (3) of section 5 shall, for all purposes, have effect as it is an approval as defined in clause (c) of section 2, as may be prescribed, for a period of three years and six months from the date of its issuance and within the said period, such enterprise shall obtain required approvals as defined in clause (c) of section 2, by complying the procedures as per laws concerned:

Provided that the Certificate of in-principal approval shall not entitle a person to use a land contrary to the provisions contained in the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (28 of 2008) and the rules made thereunder or in deviation to the land use specified in the master plan notified under the Kerala Town and Country Planning Act, 2016 (9 of 2016), wherever such plan is in force.]

(2) During the period of ³[three years and six months] 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.

⁴[6A. *Constitution of Investment Facilitation Bureau*.—(1) For the purpose of disposal of applications for the issue of various approvals required under the State enactments for setting up other enterprises in the State in a time bound manner, the Government may, by notification, constitute a Bureau to be called 'Investment Facilitation Bureau' consisting of the following members, namely:

(a) Secretary in charge of Investment Promotion in the Industries Department;

(b) Director General, Fire and Rescue Services;

(c) Managing Director, Kerala State Industrial Development Corporation;

(d) Chief Town Planner;

¹. Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

². Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

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⁴. Inserted by Act 32 of 2021 (w.e.f. 05.10.2020)

- (e) Labour Commissioner;
- (f) Director, Factories and Boilers Department;
- (g) Chief Electrical Inspector;
- (h) Additional Director, Health Services;
- (i) Director, Urban Affairs Directorate;
- (j) Director, Panchayat Directorate;
- (k) Industries and Commerce Director;

(l) Secretary or Director of the Department as may be nominated by the Chairman of the Bureau, as he deems fit.”.

(2) The Bureau shall be a body corporate by the name aforesaid having perpetual succession and common seal.

(3) Secretary in charge of Investment promotion in the Department of Industries shall be the Chairman, and the Managing Director of the Kerala State Industrial Development Corporation shall be the Convenor and Chief Executive Officer of the Bureau.

(4) Bureau shall meet at such time and place as fixed by the Chairman, for performing the functions of the Bureau under the Act and shall follow such rules of procedure as may be prescribed in regard to its transaction of business.

6B. *Powers and functions of Bureau.*—(1) Notwithstanding anything contained in any other law for the time being in force, without prejudice to the powers conferred on the State Board and District Board constituted under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000), any person who intends to set up other enterprises, shall submit a composite application to the Chief Executive Officer through online portal for the issuance of approval as required under State enactments for setting up such enterprises in such form along with such fees and such declaration, as may be prescribed.

(2) The Bureau shall after complying the procedure prescribed in this behalf and within seven working days after the receipt of a composite application which is complete in all respect, take a decision as,—

- (a) to issue approval on such conditions, as it may think fit; or

(b) to call for more details of documents, it deemed necessary for taking action on the application.

(3) The decision of the Bureau shall be informed to the applicant and to the competent authority concerned, by the Chief Executive Officer and the said decision shall be deemed to be given by the competent authority concerned and such decision shall be binding on the authorities.

(4) An approval once granted shall have effect for a period of five years from the date of its issuance and within one year from the date of such approval, every 'other enterprise' shall submit a certificate in, such form as may be prescribed, to the Chief Executive Officer to the effect that, all the provisions of the Act and rules concerned are complied with and in such cases where the renewal of approval is required, an application for renewal of such approval shall be submitted to the Chief Executive Officer through online along with required documents, before three months from the date on which such approval shall cease to operate, and thereupon it shall be renewed in such manner, as may be prescribed.

(5) During the period of one year as specified in sub-section (4), competent authority shall not undertake any inspection for the purpose of, or in connection with any approval as defined in clause (c) of section (2):

Provided that a competent authority may undertake inspection to verify that, the provisions of the Act and rules as specified in the certificate submitted to the Chief Executive Officer are complied with.

(6) If the, other enterprise fails to comply with the provisions of the Act and rules and also to submit a certificate to the effect that the provisions of Act and rules are complied within one year as specified under sub-section (4), the Bureau may, on request of the applicant and on sufficient reasons, grant a reasonable time not exceeding one year for compliance, taking into account the nature of the other enterprise and reasons for non-compliance. If the other enterprise fails to comply with the provisions of Acts and rules even after such extended period, the Bureau may revoke the approval, after giving notice to the applicant and after considering the submission if any, from the applicant.

(7) The application to be submitted to the Bureau and procedures to be followed by the Bureau for the issuance of the approval shall be, in such manner as may be prescribed.

(8) The approval shall not entitle a person to use any land contrary to the provisions contained in the Kerala Conservation of Paddy Land and Wetland Act, 2008 (28 of 2008) and rules made thereunder and it shall not entitle a person to use the land in deviation to the land use specified in the Master Plan notified under the Kerala Town and Country Planning Act, 2016 (9 of 2016).

(9) Approval once granted by the Bureau may be used as a valid document for any purpose including availing of financial assistance from a Bank or other financial institution.

6C. Application for the grant of Approval.—(1) Any person who intends to set up other enterprise other than those included as 'Red Category' by the State Pollution Control Board may submit a composite application in such form as may be prescribed, through online portal along with supporting documents and check list and such fees and declaration, as may be prescribed to the Chief Executive Officer of the Bureau.

(2) The convenor of the State Board constituted under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000) shall act as the Chief Executive Officer of the Bureau, to co-ordinate the activities of the Bureau and to scrutinize the applications received from the enterprises under section 6C and for the performance of such functions that may be assigned to him by the Bureau, from time to time. The officers and staff of the Kerala Investment Promotion and Facilitation Cell functioning under the Kerala State Industrial Development Corporation shall provide all necessary assistance to him.

Explanation:—'The Kerala Investment promotion and Facilitation Cell' means the Cell constituted as per G.O.(Ms.) No. 100/2017/Ind. dated 12th October, 2017.

(3) The Chief Executive Officer shall discharge the following powers and functions in addition to the general powers conferred under sub-section (2), namely:—

(a) to act as a single point contact for 'other enterprises' that require approval from the Bureau;

(b) to assist the applicants for completing the composite applications;

(c) to scrutinize the applications with the help of check list and to

verify the documents submitted along with the application;

(d) after completing the scrutiny of the applications,—

(i) accept applications complete in all respects;

(ii) require additional information regarding the incomplete application in accordance with the provisions of the Act and rules made thereunder;

(e) to keep the minutes of the meeting of the Bureau;

(f) to inform the decision of the Bureau to the applicant and the competent authorities concerned.

6D. *Power of the Bureau to revoke the approval.*—Notwithstanding anything contained in this Act, if the competent authority concerned, has found that the other enterprise has violated any provisions of the Act or rules and the details furnished in the application for the grant of approval is false, the competent authority concerned may recommend to the Bureau for revocation of the approval and thereupon Bureau may revoke the approval after giving a notice to such enterprise and after considering the submission if any, from the enterprise and impose on such enterprise a penalty as referred in section 8.]

7. *Grant of Exemption.*—Where the Government or any authority under it is empowered to exempt any enterprise from any approval or inspection or any provisions relating thereto under any Central Act, the Government or any such authority, as the case may be, shall, subject to the provisions of such Central Act, exercise such powers to grant such exemption to an enterprise established in the State for a period of ¹[three years and six months] from the date of issue of the ²[Certificate of in-principal approval] under section 5.

8. *Offences and Penalties.*—(1) If the nodal agency finds that any enterprise, contravened the conditions or undertaking in the self certification given to the nodal agency such enterprise shall be punishable with fine for an amount not exceeding rupees five lakh after considering submission, if any, submitted by such enterprise.

(2) Where an offence under this Act is committed by an enterprise, the enterprise as well as every person in charge of, and responsible to, the enterprise for the conduct of its business at the time of commission of the

¹. Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

². Substituted by Act 26 of 2024 (w.e.f. 02.11.2024)

offence, shall be deemed to be guilty of the offence and liable to be punished under this section.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of proprietor, managing partner, any director, manager, secretary or any other officer, such proprietor, managing partner, director, manager, or any other officer shall also be deemed to be guilty of that offence and shall be liable to be punished under this section.

Explanation:—For the purpose of this section,—

(a) enterprise means any body corporate and includes a firm or other association of individuals; and

(b) director in relation to a firm, means a partner in the firm.

9. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or nodal agency or Competent Authority or Appellate Authority or any employee of the Government, for anything which, in good faith, is done or intended to be done under this Act or any rules made thereunder.

10. *Overriding effect of this Act on other laws.*—(1) The provisions of this Act shall have overriding effect, notwithstanding anything inconsistent therewith contained in any other law, for the time being in force.

(2) In particular and without prejudice to the generality of the foregoing provisions of this Act, such provisions shall have effect notwithstanding anything inconsistent therewith contained in the following enactments and the provisions of these enactments shall be read as amended in conformity with the provisions of this Act, namely:—

1. The Kerala Panchayat Raj Act, 1994 (13 of 1994)
2. The Kerala Municipality Act, 1994 (20 of 1994)
3. The Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960)
4. The Kerala Lift and Escalators Act, 2013 (18 of 2013)
5. Travancore – Cochin Public Health Act, 1955 (XVI of 1955)
6. Madras Public Health Act, 1939 (3 of 1939)

11. *Savings.*—Subject to the provisions of section 10, nothing 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 prescribed thereunder, except to the extent expressly provided in this Act.

12. *Appellate Authority and powers of the Appellate Authority.*—(1) The Appellate Authority under this Act shall be the State Board constituted under section 3 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000), who shall exercise the powers of the Appellate Authority under this Act.

(2) Any person aggrieved by the decision of the nodal agency ¹[nodal agency or Bureau] may, within thirty days from the date of such decision, file an appeal before the Appellate Authority, in such manner as may be prescribed.

(3) The Appellate Authority after receipt of appeal may call for additional details or documents as it may considered necessary and on production of such details or documents and after giving an opportunity of being heard to the aggrieved person and the ²[nodal agency or Bureau], the Appellate Authority shall dispose of such appeal within a period of thirty days from the date of filing of such appeal and the decision of the Appellate Authority on such appeal shall be final.

(4) Notwithstanding anything contained in any other law for the time being in force, the Appellate Authority may, either *suo-motu* or on a reference, examine any order passed by the ³[nodal agency or Bureau] and pass appropriate orders as it deems fit, and such orders shall be final.

13. *Power to remove difficulties.*—(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 and deemed fit, 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.

Every order made under this section shall be laid, as soon as may be, after it is made, before the State Legislature.

¹. Substituted by Act 32 of 2021 (w.e.f. 05.10.2020)

². Substituted by Act 32 of 2021 (w.e.f. 05.10.2020)

³. Substituted by Act 32 of 2021 (w.e.f. 05.10.2020)

14. *Power to make rules.*—(1) The Government may, by a notification in the gazette, make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.