

GOVERNMENT OF TAMIL NADU
2006

[Regd. No. TN/CCN/117/2006-6
[Price: Rs 1.60 Paise.



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 3447

CHENNAI, MONDAY, DECEMBER 8, 2006
Karthigai 22, Viya, Thiruvalluvar Aandu-2037

Part III—Section 1(a)

General Statutory Rules, Notifications, Orders, Regulations, etc.,
issued by Secretariat Departments.

NOTIFICATIONS BY GOVERNMENT

SMALL INDUSTRIES DEPARTMENT

THE TAMIL NADU MICRO AND SMALL ENTERPRISES FACILITATION COUNCIL RULES, 2006.

[G.O. Ms. No. 63, Small Industries (SIB), 8th December 2006.]

16/6/2006

No. SFC 449 of 2006.

In exercise of the powers conferred by sub-section (1) of section 30 of the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006), the Governor of Tamil Nadu hereby makes the following rules:

Short title.—(1) These rules may be called the Tamil Nadu Micro and Small Enterprises Facilitation Council Rules, 2006.

They shall come into force at once.

Definitions.—(1) In this rules, unless the context otherwise requires—

- a. "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (Central Act 27 of 2006);
- b. "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (Central Act 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 under Section 20 of the Act;
- e. "Government" means the Government of Tamil Nadu;
- f. "Institute" means any institution or centre providing alternate dispute resolution services referred to sub-sections (2) and (3) of Section 18 of the Act;
- g. "member" means a member of the Council;
- h. "section" means a section of the Act.

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2) The words and expressions used and not defined, but defined in the Act, shall have the meanings assigned to them in the Act.

3. Composition of Council.—The composition of the Council established under Section 20 of the Act shall be as follows:—

1. Chennai.	(i) Industries Commissioner and Director of Industries and Commerce.	Chairperson.
	(ii) A representative of the Tamil Nadu Small and Tiny Industries Association.	Member.
	(iii) A representative of the Lead Bank.	Member.
	(iv) A representative of the Tamil Nadu Industrial Investment Corporation.	Member.
	(v) A representative of the Industrial and Financial Reconstruction Association for Small and Tiny Enterprises.	Member.
2. Tiruchirappalli.	(i) Industries Commissioner, and Director of Industries and Commerce.	Chairperson.
	(ii) A representative of the Tamil Nadu Tiny and Small Scale Industries Association.	Member.
	(iii) A representative of the Lead Bank.	Member.
	(iv) A representative of the Tamil Nadu Industrial Investment Corporation.	Member.
	(v) A representative of the Tiruchirappalli District Chamber of Commerce, Tiruchirappalli.	Member.
3. Madurai.	(i) Industries Commissioner and Director of Industries and Commerce.	Chairperson.
	(ii) A representative of the Lead Bank.	Member.
	(iii) A representative of the Tamil Nadu Tiny and Small Industries Association.	Member.
	(iv) A representative of the Tamil Nadu Industrial Investment Corporation.	Member.
	(v) A representative of the Tamil Nadu Chamber of Commerce, Madurai.	Member.
4. Coimbatore.	(i) Industries Commissioner and Director of Industries and Commerce.	Chairperson.
	(ii) A representative of the Lead Bank.	Member.
	(iii) A representative of the Tamil Nadu Tiny and Small Industries Association.	Member.
	(iv) A representative of the Tamil Nadu Industrial Investment Corporation.	Member.
	(v) A representative of the Indian Chamber of Commerce, Coimbatore.	Member.

4. Term of office of the members.—A member, other than the Chairperson, shall hold office for a period of not exceeding two years from the date of his appointment. 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 respective category or interest from which he was so appointed.

5. Removal of member.—The Government may remove any member of the Council:—

- (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 creditor; or
- (iii) if he is convicted of any offence which is punishable under any law for the time being in force; or

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(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 affect prejudicially his functions as a member.

6. **Resignation by a member.**—Any member of the Council representing Tamil Nadu Small and Tiny Industries Association, Industrial and Financial Reconstruction Association for Small and Tiny Enterprises or the Chambers of Commerce may resign from the Council by tendering one month's notice in writing to the Government through the Chairperson.

7. **Manner of filling of vacancy in the office of member.**—On expiry of the term as specified in rule 4 or when a member is removed by the Government under rule 5 or when a member dies or resigns his office, the concerned organization referred to in rule 3 shall take immediate steps to forward to Government, a fresh representative on its behalf.

8. **Vacancies of defects in appointment of member not to invalidate the decision.**—No act or proceeding of the Council shall be invalid by reason only of the existence of any vacancy among its member or any defect in appointment of member.

9. **Rendering of assistance to the Council.**—The Regional Joint Director of Industries and Commerce, Chennai in respect of the Council established at Chennai or the General Manager of the District Industries Centre concerned in respect of Councils established at other places, as the case may be, shall assist the Council in discharging the functions under the Act and carryout the instructions issued by the Council concerned.

10. **Procedure in making reference under Section 18.**—(1) Every reference under sub-section (1) of Section 18 to the Council shall contain full particulars of the supplier and his status, supplied goods or services rendered, terms of payment, if any, agreed between the supplier and buyer, actual payment received with date, amount due and the interest due calculated under section 16 of the Act supported by an affidavit, with necessary court fee stamp to the value of Rs 10 (Rupees ten only) affixed the Council may terminate the proceedings, without prejudice to the rights of such person to make fresh reference if he is otherwise entitled so to do.

11. **Procedure to be followed by the members in discharge of their functions under sub-section (3) of section 21 of the Act.**—

(1) Once the reference is submitted to the Council in terms of rule 10, the Chairperson shall cause the reference and the reply of the buyer to be examined and, on being satisfied with the reference that there is 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.

(2) When the Council desires, in the meeting to conduct conciliation by itself in terms of sub-section (2) of Section 18 of the Act, then the Council shall issue notices to the supplier and the buyer to appear before it. However when the Council decides in the meeting that the assistance of an institute to conduct conciliation is needed, then, the Council shall communicate the decision to the institute concerned.

(3) When such conciliation does not lead to settlement of the dispute and the Council decides in the meeting to take up the dispute for arbitration itself in terms of sub-section (3) of Section 18 of the Act, it shall issue notices to the supplier and buyer to appear before it. However, when the Council decides in the meeting that the dispute can be referred to an institute for arbitration, it shall communicate the decision to the institute concerned. The said institute shall require the supplier and buyer concerned to appear before it thereon. The supplier shall also simultaneously send a copy of the reference to the buyer or buyers against whom the reference is directed.

(4) Such reference under this rule shall be made through the Regional Joint Director of Industries and Commerce, Chennai, in respect of the Council established at Chennai and through the General Manager of the District Industries Centre concerned in respect of Councils established at other places. The Regional Joint Director, Chennai or the General Manager of the District Industries Centre, as the case may be, shall on receipt of the reference, issue a preliminary intimation to the buyer incorporating the details of the reference received from the supplier and consequence of default to be replied to within seven days of issue of such intimation.

(5) Simultaneously, the Regional Joint Director of Industries and Commerce, Chennai, in respect of the Council established at Chennai and the General Manager of the District Industries Centre, in respect of the Councils established at other places, as the case may be, shall examine the reference. The Regional Joint Director of Industries and Commerce, Chennai or the General Manager of the District Industries Centre concerned, shall within fifteen days of the receipt of the reference submit the reference alongwith the reply, if any, received from the buyer, before the Chairperson for consideration. The Chairperson may require the person who submitted the reference under sub-section (1) of section 18 of the Act to provide further particulars of the claim or any relevant

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documents in support of the claim as he may consider necessary for the purpose of the proceedings. If such person fails or omits to do so within fifteen days of receipt of such communication from the Chairperson or within such further time as the Chairperson may, for sufficient cause allow, by issuing notices to both parties in this behalf. The supplier or the buyer may, either in person or through his lawyer present his case before the Council or the institute during the arbitration proceedings.

- (E) The Council or the institute, as the case may be, shall make an arbitral award in accordance with section 31 of the arbitration and Conciliation Act and within the time specified in sub-section (5) of Section 18 of the Act. The arbitral award shall be duly stamped in accordance with the relevant law in force. Copies of the arbitral award shall be made available within seven days of filing of an application seeking copies of the arbitral award.

(F) **Decision of Council.**—Any decision of the Council shall be made by a majority of its members present at the meeting.

(G) **Report about conciliation or arbitration.**—The Chairperson or any other officer authorised by the Chairperson, shall submit a report about conciliation or arbitration under Section 18 of the Act including annual progress report of the Council to the Member-Secretary of the Advisory Committee referred to in sub-section (3) of the section 7 of the Act.

(H) **Meetings of the Council.**—The Council shall meet as often as is deemed necessary by the Chairperson. Seven days notice shall ordinarily be given for any meeting, though, in case of urgency, a meeting may be called at such shorter notice as the Chairperson may decide.

ARUN RAMANATHAN,
Secretary to Government.

