

Fifteenth Kerala Legislative Assembly
Bill No.66

**THE KERALA MICRO SMALL AND MEDIUM
ENTERPRISES FACILITATION
(AMENDMENT) BILL, 2021**

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THE KERALA MICRO SMALL AND MEDIUM
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(AMENDMENT) BILL, 2021

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BILL

to amend the Kerala Micro Small and Medium Enterprises Facilitation Act, 2019.

Preamble.—WHEREAS, it is expedient to amend the Kerala Micro Small and Medium Enterprises Facilitation Act, 2019 (16 of 2019) for the purposes hereinafter appearing;

BE it enacted in the Seventy-second 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 Facilitation (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 5th day of October, 2020.

2. *Amendment of long title.*—In the long title of the Kerala Micro Small and Medium Enterprises Facilitation Act, 2019 (16 of 2019) (hereinafter referred to as the principal Act), after the words “ micro small and medium enterprises” , the words “and to grant approval to other enterprises in a time bound manner” shall be inserted.

3. *Amendment of preamble.*—In the preamble of the principal Act, after the words “ micro small and medium enterprises”, the words “ and to grant approval to other enterprises in a time bound manner” shall be inserted.

4. *Amendment of section 1.*—In sub-section (1) of section 1 of the principal Act, after the words “ Micro Small and Medium Enterprises”, the words “ and other enterprises” shall be inserted.

5. *Amendment of section 2.*—In the principal Act, in section 2,—

(i) in clause (c), after the words “ micro small and medium enterprises” the words “ and other enterprises” shall be inserted;

(ii) after clause (c), the following clauses shall be inserted, namely:—

“ (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;” ;

(iii) after clause (j), the following clause shall be inserted, namely:—

“ (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 does not include the Micro Small and Medium Enterprises;”.

6. *Insertion of new sections 6A, 6B, 6C and 6D.*— In the principal Act, after section 6, the following sections shall be inserted, namely:—

“6A. *Constitution of Investment Facilitation Bureau.*—(1) For the purpose of speedy disposal of applications for the issue of various approvals required under the State enactments for setting up other enterprises in the State, 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 Industries Department;
- (b) Director, Industries and Commerce of the Government of Kerala;
- (c) Managing Director, Kerala State Industrial Development Corporation;
- (d) Managing Director, Kerala State Industrial Infrastructure Development Corporation [KINFRA];
- (e) Chief Executive Officer of the Kerala Bureau of Investment Promotion.

(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, and the meeting shall be held on the first day of every week and if such day is a holiday, the said meeting shall be held on the next working day 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 Boards and District Boards 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 various State enactments or 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; or

(c) to reject the approval on the reasons to be recorded.

(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 decisions shall be binding on the authorities concerned.

(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.

(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 (5), 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 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 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) to 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) 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 shall revoke the approval of such enterprise and impose on such enterprise a penalty as referred in section 8.”.

7. *Amendment of section 12.*—In the principal Act, in section 12,—

(a) in sub-section (2), for the words “ nodal agency” the words “ nodal agency or Bureau ” shall be substituted;

(b) in sub-section (3), for the words “ nodal agency” the words “ nodal agency or Bureau” shall be substituted;

(c) in sub-section (4), for the words “ nodal agency” the words “ nodal agency or Bureau, as the case may be, ” shall be substituted.

8. *Repeal and saving.*—(1) The Kerala Micro Small and Medium Enterprises Facilitation (Amendment) Ordinance, 2021 (136 of 2021) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Kerala Micro Small and Medium Enterprises Facilitation Act, 2019, is enacted in the State so as to provide for establishment of micro, small and medium enterprises, and to exempt such enterprises from certain approvals and inspections required for the establishment and operation of micro, small and medium enterprises in the State, with an object of transforming the State into an Industrial friendly destination.

2. The Government have decided to bring suitable amendments to the Kerala Micro Small and Medium Enterprises Facilitation Act, 2019 in order to incorporate provision for the issue of various approvals and licenses required under State enactments to the enterprises other than Micro Small and Medium Enterprises, within seven working days from the date of filing application, as the reduction in timelines for obtaining licenses and approvals are required to attract investments and also to generate employments in the State and, constitute to Investment Facilitation Bureau for the above said purpose.

3. As the Legislative Assembly of the State of Kerala was not in session, and the above proposal had to be given effect to immediately, the Kerala Micro Small and Medium Enterprises Facilitation (Amendment) Ordinance, 2020 (73 of 2020) was promulgated by the Governor of Kerala on the 4th day of October, 2020 and the same was published in the Kerala Gazette Extraordinary No. 2265 dated 5th October, 2020.

4. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala, during its session which convened on 31st day of December, 2020 and during its session which commenced on the 8th day of January, 2021 and ended on the 22nd day of January, 2021.

5. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session the Governor of Kerala had promulgated the Kerala Micro Small and Medium Enterprises Facilitation (Amendment) Ordinance, 2021 (10 of 2021) on the 9th day of February, 2021 and the same was published in the Kerala Gazette Extraordinary No.662 dated 10th day of February, 2021.

6. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 24th day of May, 2021 and ended on the 10th day of June, 2021.

7. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session the Governor of Kerala had promulgated the Kerala Micro Small and Medium Enterprises Facilitation (Amendment) Ordinance, 2021 (85 of 2021) on the 1st day of July, 2021 and the same was published in the Kerala Gazette Extraordinary No.1934 dated 2nd day of July, 2021.

8. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 22nd day of July, 2021 and ended on the 13th day of August, 2021.

9. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session the Governor of Kerala had promulgated the Kerala Micro Small and Medium Enterprises Facilitation (Amendment) Ordinance, 2021 (136 of 2021) on the 23rd day of August, 2021 and the same was published in the Kerala Gazette Extraordinary No. 2494 dated 25th day of August, 2021.

10. The Bill seeks to replace Ordinance No. 136 of 2021 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

Section 6A proposed to be inserted in the principal Act by clause 6 of the Bill provides for the constitution of a Bureau called 'Investment Facilitation Bureau' for the purpose of speedy disposal of applications for the issue of various approvals, under the State enactments for setting up other enterprises in the State. The recurring and non-recurring expenditure from the consolidated fund of the State in relation to the constitution of the Bureau cannot be calculated accurately at this time.

MEMORANDUM REGARDING DELEGATED LEGISLATION

(i) Sub-section (1) of section 6A of the principal Act proposed to be inserted by clause 6 of the Bill, seeks to empower the Government to constitute a Bureau to be called 'Investment Facilitation Bureau' by notification in the Gazette for the speedy disposal of applications for the issue of various approvals required under the State enactments for setting up other enterprises in the State. Sub-section (4) of the said section seeks to empower the Government to prescribe the procedure for the transaction of business of the said Bureau.

(ii) Sub-section (1) of section 6B of the principal Act proposed to be inserted by clause 6 of the Bill, seeks to empower the Government to prescribe

fees, form and declaration to be submitted to the Chief Executive Officer of the Bureau through online portal by any person who intends to setup other enterprises in the State, sub-section (4) seeks to empower the Government to prescribe form of certificate that is to be submitted by other enterprises, within one year from the date of issuance of approval, to the effect that provisions of Acts and rules are complied with and sub-section (7) seeks to empower the Government to prescribe the procedure to be followed by the Bureau for the approval of application to be submitted to the Bureau.

2. The matters in respect of which rules may be made or notification may be issued are matters of procedure and are of routine or administrative in nature. Further, the rules, after they are made subject to scrutiny by the Legislative Assembly. The delegation of legislative powers is, thus, of a normal character.

P. RAJEEVE.

**EXTRACT FROM THE KERALA MICRO SMALL AND
MEDIUM ENTERPRISES FACILITATION ACT, 2019
(16 OF 2019)**

An Act to provide for exemption from certain approvals and inspections required for the establishment and operation of micro small and medium enterprises in the State and matters connected theirwith 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 in the State and matters connected there with 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 facilitation Act, 2019.

(2) It shall come in to force at once.

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

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(c) "Approval" means licenses, permissions, approvals, clearances, registrations, consents, no objection certificate and the like, required under any State law in connection with the establishment or operation of micro small and medium enterpriser in the State;

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

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6. *Effect of the Acknowledgement Certificate.*—An acknowledgement certificate issued under section 5 shall, for all purposes, have effect as if it is an approval as defined in clause (c) of section 2, for a period of three years from the date of its issuance and after the expiry of the said period of three years, such enterprise shall have to obtain required approvals as defined in clause (c) of section 2, within six months from the date of such expiry:

Provided that the acknowledgement certificate 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 it shall also 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), wherever such plan is in force.

(2) During the period of three years 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.

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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 may, within three 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 nodal agency 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 contain in any other law for the time being in force, the Appellate Authority may, either *suo-motu or on a reference, examine* any order pased by the nodal agency and pass appropriate orders as it deems fit, and such orders shall be final.

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