



The Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020

Act 14 of 2020

Keyword(s):

Acknowledgment Certificate, Approval, Undertaking

Amendment appended : 48 of 2021

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 433 Dispur, Monday, 19th October, 2020, 27th Asvina, 1942 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 19th October, 2020

No. LGL.91/2020/9.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on 12th October, 2020 is hereby published for general information.

ASSAM ACT NO. XIV OF 2020

(Received the assent of the Governor on 12th October, 2020)

**THE ASSAM MICRO, SMALL AND MEDIUM ENTERPRISES
(FACILITATION OF ESTABLISHMENT AND OPERATION) ACT, 2020**

AN ACT

to provide for exemption from certain approvals, and inspections for establishment and operation of the micro, small and medium enterprises in the State of Assam and matters connected therewith or incidental thereto.

Preamble

WHEREAS, with a view to generate employment, promote entrepreneurship and accelerate economic growth, the State Government of Assam aims to address the specific needs of the micro, small and medium enterprises, it is expedient to give effect to exemption from certain approvals and inspections required for establishment and operation of micro, small and medium enterprises;

It is hereby enacted in the Seventy-first Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020.
- (2) It extends to the whole of Assam.
- (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires,-
 - (a) "Acknowledgment Certificate" means the acknowledgment certificate issued under section 5;
 - (b) "approval" means any permission, no-objection, clearance, consent, approval, registration, license and the like, required under any State Law in connection with the establishment or operation of an enterprise in the State of Assam;
 - (c) "Competent Authority" means any department or agency of the Government or local authority, statutory body, State owned corporation, Panchayati Raj Institution, Municipality/ Urban Local Bodies, Urban Development Authorities or any other authority or agency constituted or established by or under any State 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;
 - (d) "enterprise" means a micro, small and medium enterprise;
 - (e) "Government" means the Government of Assam;

(f) "Micro, Small and Medium enterprise" means the Micro, Small or Medium Enterprises as defined in the Micro, Small and Medium Enterprises Development Act, 2006 or as amended;

(g) "Nodal Agency" means the Nodal Agency referred to in section 3;

(h) "notification" means a notification published in the Assam Gazette and the word "notified" shall be construed accordingly;

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

(j) "State" means State of Assam ;

(k) "undertaking" means a letter to be taken from enterprise under the prescribed format to include that the enterprise shall ensure appropriate labour welfare measures, adequate fire safety and environmental measures as required by law.

Nodal Agency

3. The State Government may, by notification in the Official Gazette, set up an Investor Facilitation Agency at State Level hereinafter called the Nodal Agency, which shall be a cell headed by the Commissioner, Industries and Commerce, Assam with such other supervisory and secretariat staff as may be required and shall act as the Nodal Agency at the State Level for the purposes of this Act.

Powers and functions of Nodal Agency.

4. (1) Subject to the Superintendence, direction and control of the Government, the powers and functions of the Nodal Agency shall be as follows:-

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

(b) to maintain the records of Declaration of Intent received and Acknowledgment Certificate issued under this Act.

(2) 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.

Filing of Declaration.

5. (1) Any person who intends to start an enterprise, may furnish to the Nodal Agency a declaration of intent to start an enterprise in such form and in such manner as may be prescribed, with an undertaking that the extant Labour laws have been fully complied and shall be complied with to ensure appropriate labour welfare measures adequate fire safety and environmental measures as required by law.

Explanation:-Any person who has already moved the Competent Authority to obtain all or any of the approvals as defined in clause (b) of section 2 before the commencement of this Act, may also opt to furnish declaration of intent to start an enterprise under this sub-section.

(2) On receipt of the declaration completed in all respects, the Nodal Agency shall forthwith issue an Acknowledgement Certificate in the prescribed form to the person who furnished the declaration under sub-section (1).

Effect of the Acknowledgement Certificate.

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

Provided that the enterprise may apply for and obtain necessary permission from the Competent Authorities concerned under the respective laws within a period of three years from the date of issuance of Acknowledgement Certificate:

Provided further that the Acknowledgement Certificate shall not entitle a person to use a land in violation of the provisions of The Assam Agricultural Land (Regulation of Re-classification and Transfer for Non-Agricultural Purpose) Act, 2015 and other land laws in force. It shall also not entitle a person to use the land falling in restricted category -viz. Public Grazing Reserves (PGRs), Village Grazing Reserves (VGRs), Wetlands, Heritage, Historical, Archaeological sites, and land settled, allotted or reserved for religious institutions like Sattras, Namghars, Temples, Wakfs, land under Tribal Belts and Blocks, etc. and in deviation of land use specified in the Master Plan wherever such plan is in existence:

Provided also that any person to whom an Acknowledgement Certificate has been issued, shall obtain No Objection Certificate of Fire Safety and Electrification from the concerned Competent Authorities before starting of the enterprise.

Assam Act
No. XXVI
of 2015

- (2) During the period of three years as 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 (b) of section 2:
- Provided that the Competent Authority shall be empowered to undertake an inspection during the said period of three years in case of where the enterprise has applied for necessary permission under the respective laws within a period of three years from the date of issuance of Acknowledgement Certificate.
- Exemption** 7. Where the Government of any authority under it is empowered to exempt any enterprises from approval or inspection or any provisions relating thereto under any Central Act, the Government or, as the case may be, any such authority shall, subject to the provisions or such Central Act. exercise such powers to grant such exemption to an enterprise established in the State for at least a period of three years from the date of issue of the Acknowledgement Certificate issued under sub-section (2) of section 5.
- Protection of action taken in good faith.** 8. 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 in respect of anything which is done or intended to be done in good faith under this Act or any rules made thereunder.
- Act to override other laws.** 9. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other State law, for the time being in force.
- Savings** 10. Subject to the provisions of section 7, nothing in this Act shall be construed as exempting any enterprise from the application of the provisions of any law including extant labour laws for the time being in force, or any regulatory measures and standards laid down thereunder, except to the extent expressly provided in this Act.
- Power to make rules.** 11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) All rules made under this Act shall be subject to the condition of previous publication.

(3) All rules made under this Act shall be laid for not less than thirty days before the Assam Legislative Assembly as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette; and shall there upon take effect.

Power to remove difficulties.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official 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 sub-section (1) shall be laid, as soon as may be, after it is made before the State Legislature.

S. M. BUZAR BARUAH,

Commissioner & Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.



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No. 53 Dispur, Tuesday, 1st February, 2022, 12th Magha, 1943 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 29th January, 2022

No. LGL.166/2021/13.— The following Act of the Assam Legislative Assembly which received the assent of the Governor of Assam on 24th January, 2022 is hereby published for general information.

ASSAM ACT NO. XLVIII OF 2021

(Received the assent of the Governor on 24th January, 2022)

**THE ASSAM MICRO, SMALL AND MEDIUM ENTERPRISES
(FACILITATION OF ESTABLISHMENT AND OPERATION)
(AMENDMENT) ACT, 2021**

AN ACT

further to amend the Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020.

Preamble

Whereas, it is expedient further to amend the Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

**Assam
Act No.XIV
of 2020**

It is hereby enacted in the Seventy- second Year of the Republic of India as follows: -

**Short title,
extent and
commencement**

1. (1) This Act may be called Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) (Amendment) Act, 2021.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force at once.

**Amendment of
section 2**

2. In the principal Act, in section 2, after clause (k), the following new clauses (l), (m) and (n) shall be inserted, namely: -

- (l) "Notified Industrial Area" means delineated enclave designated by the Government of Assam for setting up of Micro, Small and Medium Enterprises.
- (m) "Deemed Industrial Area" means any area where large number of Industries have been growing up and can clearly be distinguished as Industrial Cluster, which shall be notified as "Deemed Industrial Area" by the Office of Commissioner of Industries and Commerce, Assam.
- (n) "Designated Officer" in respect of 'Notified Industrial Area' means such Officers not below the rank of Deputy General Manager, of the Assam Industrial Development Corporation Limited, the Assam Small Industries Development Corporation Limited and the Assam Industrial Infrastructure Development Corporation Limited, to be notified by the respective Corporations. "Designated Officer", in respect of 'Deemed Industrial Area' means such Officers not below the rank of General Manager, District Industries and Commerce Centre to be notified by the Office of Commissioner of Industries and Commerce, Assam".

Amendment of section 4 3. In the principal Act, in section 4, after sub-section (2), a new sub-section (3) shall be inserted, namely: -

“(3) In respect of ‘Notified Industrial Area’ and ‘Deemed Industrial Area’, the Designated Officer shall have the following powers and functions, namely:

(i) Any person or enterprise who intends to set up an Industrial Unit in the “Notified Industrial Area” or “Deemed Industrial Area” shall apply for necessary clearances/ permissions/ NOCs through the Ease of Doing Business portal in an application form as may be prescribed.

(ii) The Designated Officer shall forward that application to the concerned Government Departments or agencies. If Government Departments and agencies fail to recommend the licenses, permission, etc or they don't provide their objections to the Designated Officer within 30 days from the date of receipt of the application, such permissions, clearances, etc. shall be deemed to be recommended/approved by them.

However, approval of Power Connection, Fire Clearance for industrial units shall not be included in the purview of this time limit.

(iii) The Designated Officer shall issue NOC, clearance, permissions, etc. for setting up and operating the industrial unit in a format as may be prescribed.

(iv) Approval shall not be given by the Designated Officer to the units dealing with hazardous items or industries of a specific category to be notified by the Government.”

Amendment of
section 8

4. In the principal Act, for section 8, the following shall be substituted, namely: -

“8. No suit, prosecution or other legal proceedings shall lie against the Government or Nodal Agency/ Designated Officer or competent authority/ Approval Committee or any employee of the Government in respect of anything which is done or intended to be done in good faith under this Act or any rules made thereunder.”

GEETANJALI DAS SAIKIA,

Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.