

Ordinance Summary

The Karnataka Industries (Facilitation) (Amendment) Ordinance, 2020

- The Karnataka Industries (Facilitation) (Amendment) Ordinance, 2020 was promulgated on July 1, 2020. It amends the Karnataka Industries (Facilitation) Act, 2002. The Ordinance relaxes certain approval processes required by manufacturing industries or enterprises to commence operations.
- **Definitions:** The list of ‘Applicable Acts’ under the 2002 Act includes: (i) The Factories Act, 1948, (ii) the Boilers Act, 1923, and (iii) the Minimum Wages Act, 1948, among others. These are laws under which approvals were required for new entities to be set up. The Ordinance expands this list to include 12 more laws, and the rules and policies of the Karnataka State Small Scale Industries Development Corporation. They are: (i) the Karnataka Municipalities Act, 1964, (iii) the Karnataka Land Reforms Act, 1961, and (iv) the Karnataka Preservation of Trees Act, 1976, among others.
- **Definitions:** The Ordinance defines Manufacturing Enterprise as an one engaged in the manufacturing of goods pertaining to any industry (as per the Industries Development and Regulation Act, 1951), or employing plant and machinery for the purpose of value addition to the final product having a distinct name or use or character. Manufacturing industry is one which engages in manufacturing and processing of items, and creates new commodities or performs value addition.
- **Functions of Nodal Agencies:** The Act establishes a Nodal agency at both the state and district levels, to facilitate investments by industries. The agency issues a Combined Application Form (CAF) for projects approved by the State High Level Clearance Committee or the State/District Single Window Clearance Committee. It is issued in lieu of individual forms prescribed under various applicable central or state Acts. The Ordinance empowers the respective nodal agency to issue an Acknowledgement Certificate (AC) on the receipt of CAF, after approval from any of the clearance committees. The AC would be considered equivalent to various departmental clearances for the setting up of an industry.
- **Relaxation in approvals:** Under the Ordinance, an AC issued will be valid for a period of three years or till the date of commencement of operations of the new entity, whichever is earlier. This is only applicable for legitimately acquired land that is being used for the same purpose that it was acquired for. Approvals that need departmental clearances before the start of construction or establishment shall be deemed to be received. The applications for the operationalisation of the entity must be made, at least, six months prior to the expiry of the AC.
- **Self-certification:** The Act allows for self-certification at the time of submitting the CAF and once a year thereafter. The Ordinance now requires the self-certification be in the form of an affidavit, to be submitted with the CAF. If an applicant does not opt for self-certification, all necessary approvals must be ensured prior to setting up the industry.
- **Inspections:** The Act provides for inspections based on random selection or against specific complaints. The former would be jointly conducted (annually) with the (i) Office of the Labour Commissioner, (ii) Chief Inspector of Factories and Boilers, (iii) representatives of the Employees State Insurance Corporation and the Employees Provident Fund Organisation, and (iv) Karnataka State Pollution Control Board. The Ordinance now allows for inspections (where warranted) to be conducted by respective department officers and the nodal agency.
- **Penalty:** The Ordinance increases the penalty for non-compliance or violation by a manufacturing industry or enterprise, (i) from Rs 5,000 to one lakh rupees for the first offence, and (ii) from Rs 10,000 to two lakh rupees for the second offence. The concerned department can initiate penal action under the respective Acts (which are violated). Where a departmental officer fails to provide service/approval in a timely manner, during the period of deemed clearance, he will be penalised under the Sakaala Services Act, 2011.

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