



# The Gujarat Government Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

Vol. LX ] WEDNESDAY, DECEMBER 4, 2019/ AGRAHAYANA 13, 1941

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

## PART V

### Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

### THE GUJARAT MICRO, SMALL AND MEDIUM ENTERPRISES (FACILITATION OF ESTABLISHMENT AND OPERATION) BILL, 2019.

GUJARAT BILL NO. 34 OF 2019.

#### A BILL

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

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

1. (1) This Act may be called the Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2019.

Short title,  
extent and  
commencement.

- (2) It extends to the whole of the State of Gujarat.
- (3) It shall be deemed to have come into force on the 24<sup>th</sup> October, 2019.

**Definitions.**

2. In this Act, unless the context otherwise requires:-

- (a) "Acknowledgement Certificate" means the acknowledgement 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 Gujarat;
- (c) "Competent Authority" means any department or agency of the Government or local authority, statutory body, State owned corporation, Panchayati Raj Institution, Municipality, Urban Development Authorities, Urban Improvement Trusts 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) "District Level Facilitation Committee (DLFC)" means the District Level Facilitation Committee constituted under section 5 of the Gujarat Single window Clearances Act, 2017;
- (e) "enterprise" means a micro, small or medium enterprise;
- (f) "Government" means the Government of Gujarat;
- (g) "micro, small or medium enterprise" means the Micro, Small or Medium Enterprises, as defined in the Micro, Small and Medium Enterprises Development Act, 2006;
- (h) "nodal agency" means the nodal agency referred to in section 3;

Guj. 29 of  
2017.

27 of 2006.

- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "State" means the State of Gujarat;
- (k) "Single Window Facilitation Committee (SWFC)" means the Single window Facilitation Committee constituted under section 6 of the Gujarat Single window Clearances Act, 2017;
- (l) "Undertaking" means a letter to be taken from enterprise under a prescribed format to include that the enterprise shall ensure appropriate labour welfare measures, adequate fire safety and environmental measures as required by the law.

**Guj. 29 of  
2017.**

3. (1) Subject to superintendence, direction and control of the Government, the Investor Facilitation Agency (IFA) constituted under section 8 of the Gujarat Single window Clearances Act, 2017 shall be the State level Nodal Agency for the purposes of this Act.

**Nodal  
Agency.**

**Guj. 29 of  
2017.**

(2) Subject to superintendence, direction and control of the Government and the District Level Facilitation Committee, the District Industries Centre (DIC) shall be the District level Nodal Agency for the purposes of this Act.

4. (1) Subject to the superintendence, direction and control of the Government, the powers and functions of the nodal agencies shall be as follows:-

**Powers  
and  
functions  
of nodal  
agencies.**

- (a) to assist and facilitate establishment of enterprises in the State; and
- (b) to maintain the records of declaration of intent received and Acknowledgement Certificate issued under this Act.

(2) The Government may assign such other powers and functions to the nodal agencies 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 State level nodal agency a declaration of intent to start an enterprise in such form and in such manner as may be prescribed.

*Explanation.* - Any person who has applied to the Competent Authority to obtain all or any of the approvals as referred to 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 a declaration of intent, the State level nodal agency shall, forthwith, issue an Acknowledgment Certificate, in the prescribed form to the person who furnished the declaration under sub-section (1).

**Effect of the Acknowledgment Certificate.**

6. (1) An Acknowledgment Certificate issued under section 5 shall for all purposes, have effect as if it is an approval as referred to in clause (b) 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, the enterprise shall have to obtain required approval as referred to in clause (b) of section 2 within six months from the date of such expiry:

Provided that the enterprise may apply for necessary permission under the respective laws within a period of three years from the date of issuance of acknowledgment certificate:

Provided further that such Acknowledgement Certificate shall not entitle a person to use a land in deviation to the land use specified in the master plan wherever such plan is in force:

Provided also that the Acknowledgement Certificate shall not entitle a person to use the land falling in restricted category as specified in clause (b) of section 65B of the Gujarat Land Revenue Code, 1879:

Bom. V of  
1879.

Provided also that any agricultural land on which a person wishes to start an enterprise shall be deemed to be a non-agricultural land under the provisions of section 65B of the Gujarat Land Revenue Code, 1879:

Bom. V of  
1879.

Provided however that the relaxation shall not be given to the enterprise from the provisions of-

- |       |   |                               |
|-------|---|-------------------------------|
| (i)   | section 73AA of the Gujarat Land Revenue Code, 1879;  | <b>Bom. V of 1879.</b>        |
| (ii)  | sections 43 and 63AA of the Gujarat Tenancy and Agricultural Lands Act, 1948;                                 | <b>Bom. LXVII of 1948.</b>    |
| (iii) | sections 57 and 89A of the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958; | <b>Bom. XCIX of 1958.</b>     |
| (iv)  | section 55 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949.             | <b>Sau. Ord. XLI of 1949.</b> |

(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 cases where the enterprise has applied for necessary permission under the respective laws within a period of three years from the date of issuance of acknowledgment certificate.

7. Where the Government or any authority under it is empowered to exempt any enterprises from any 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 of 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.

**Exemption.**

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.

**Protection of action taken in good faith.**

Act to  
override  
other  
laws.

9. (1) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other State 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:-

- |                             |     |  |
|-----------------------------|-----|--|
| Bom. V of 1879.             | (a) | the Gujarat Land Revenue Code, 1879;   |
| Bom. LXVII of 1948.         | (b) | the Gujarat Tenancy and Agricultural Lands Act, 1948;                                  |
| Bom. LIX of 1949.           | (c) | the Gujarat Provincial Municipal Corporations Act, 1949;                               |
| Sau. Ord. XLI of 1949.      | (d) | the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance 1949;     |
| Bom. XCIX of 1958.          | (e) | the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958; |
| Guj. 34 of 1964.            | (f) | the Gujarat Municipalities Act, 1963;  |
| President's Act 27 of 1976. | (g) | the Gujarat Town Planning and Urban Development Act, 1976;                             |
| Guj. 18 of 1993.            | (h) | the Gujarat Panchayats Act, 1993.  |

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 for the time being in force, or any regulatory measures and standards prescribed 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 State Legislature 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 thereupon take effect.

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:

**Power to  
remove  
difficulties.**

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.

13. (1) The Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019 is hereby repealed.

**Repeal and  
savings.**

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

### STATEMENT OF OBJECTS AND REASONS

Liberalization and globalization have positive impact on the industrial development in the State. Despite Government's efforts to attract investment and promote industries, it is experienced that one of the most critical reform challenges lies in improving the ease of doing business. With a view to secure this objective, it was considered necessary to prepare a blue-print for betterment of the business environment in the State. The State Government has taken up the activities related to simplification of various procedures for establishment of industries from the view point of prospective investors in the Industrial Sector.

The State Government is committed towards creating an investor friendly atmosphere in the State. Many steps have been taken in the past few years to promote investment and make the State of Gujarat investor friendly State and for that it is considered necessary to have a law which shall provide for exemption from certain approvals and inspections for establishment and operation of the micro, small and medium enterprises in the State of Gujarat. The salient features of the Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2019 are as under:

- (1) any entrepreneur who intends to start an enterprise shall apply online for 'Declaration of Intent' and an 'Acknowledgment Certificate' shall be issued immediately to the entrepreneur by the Nodal Agency.
- (2) by putting in place a robust mechanism whereby just filling 'Declaration of Intent' on the portal, the entrepreneur shall get Acknowledgment Certificate immediately online.
- (3) the enterprise shall be exempted from the approvals and clearances for three years.



- (4) after expiry of three years, the enterprise shall have to obtain required approvals within six months.

The said Act shall be the major step to promote entrepreneurship and materialize investment by the State Government and it would be a major law to facilitate investment, foster innovation and increase employment opportunities.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

- Clause 1.-** This clause provides for short title, extent and commencement of the Act.
- Clause 2.-** This clause defines certain terms used in the Bill.
- Clause 3.-** This clause provides for the constitution of the Nodal Agency.
- Clause 4.-** This clause provides for powers and functions of the Nodal Agency.
- Clause 5.-** This clause provides for filing of a declaration of intent by any person who intends to start a micro, small or medium enterprise.
- Clause 6.-** This clause provides for the effect of the acknowledgement Certificate issued as if it is an approval under clause (b) of section 2 of the Act.
- Clause 7.-** This clause empowers the State Government or any authority to exempt any enterprises from any approval or inspection or any provisions relating thereto under any Central Act.

- Clause 8.-** This clause provides for usual indemnity for acts done in good faith.
- Clause 9.-** This clause provides for overriding effect to the extent of inconsistent provisions in the certain State Laws.
- Clause 10.-** This clause provides that the application of the provisions of any law for time being in force shall not affect except to the extent expressly provided in the Act.
- Clause 11.-** This clause empowers the State Government to make rules by notification in the *Official Gazette*, for carrying out the purposes of this Act, subject to the condition of the previous publication.
- Clause 12.-** This clause empowers the State Government to remove difficulties arising within a period of two years from the commencement of the Act.

**SAURABH PATEL,**

### **FINANCIAL MEMORANDUM**

The Gujarat Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Bill, 2019 seeks to provide for exemption from certain approvals and inspections for establishment and operation of the micro, small and medium enterprises in the State of Gujarat. The administrative set up already exists for carrying into effect the provisions of the relevant Acts and as such, if the same is enacted and brought into force, it would not involve any additional expenditure from the Consolidated Fund of the State.

**SAURABH PATEL,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill provides for delegation of legislative powers in the following respects:-

**Clause 5.-** (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form and the manner in which a declaration of intent may be furnished by the State level Nodal Agency to start an enterprise;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the Form in which an Acknowledgement Certificate shall be issued forthwith by the State level Nodal Agency to the person who furnished the declaration of intent.

**Clause 11.-** Sub-clause (1) of this clause empowers the State Government to make, by notification in the *Official Gazette*, rules for carrying out the purposes of the Act.

**Clause 12.-** Sub-clause (1) of this clause empowers the State Government to remove by an order published in the *Official Gazette*, any difficulty if arise in giving effect to the provisions of this Act within a period of two years.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 4<sup>th</sup> December, 2019.

**SAURABH PATEL.**

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 4<sup>th</sup> December, 2019.

**K. M. LALA,**

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.