

**AUTHORITATIVE ENGLISH TEXT**

BILL NO. 18 OF 2019

**THE HIMACHAL PRADESH MICRO, SMALL AND MEDIUM ENTERPRISES (FACILITATION OF ESTABLISHMENT AND OPERATION) BILL, 2019**

## ARRANGEMENT OF CLAUSES

*Clauses:*

1. Short title and commencement.
  2. Definitions.
  3. Nodal agency.
  4. Powers and functions of nodal agency.
  5. Filing of declaration and Acknowledgment Certificate.
  6. Effect of the Acknowledgment Certificate.
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  12. Power to remove difficulties.
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  14. Repeal of the Himachal Pradesh Ordinance No. 2 of 2019 and savings.
- THE SCHEDULE.

**Bill No. 18 of 2019****THE HIMACHAL PRADESH MICRO, SMALL AND MEDIUM ENTERPRISES (FACILITATION OF ESTABLISHMENT AND OPERATION) BILL, 2019**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A****BILL**

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

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventieth Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Himachal Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2019.

(2) It shall be deemed to have come into force on 5th day of November, 2019.

**2. Definitions.**—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, licence and the like, required under any State law as mentioned in THE SCHEDULE for the establishment or operation of an enterprise in the State;
- (c) “Competent Authority” means any department or agency of the Government, a local authority, statutory body, State owned corporation, Panchayati Raj Institution, Municipality, 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) “Director” means Director or Commissioner of Industries Department of the Government;
- (e) “enterprise” means a micro, small or medium enterprise;
- (f) “Government” or “State Government” means the Government of Himachal Pradesh;
- (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 (27 of 2006) ;
- (h) “nodal agency” means the nodal agency referred to in section 3;
- (i) “notification” means a notification published in the Rajpatra (e-Gazette), Himachal Pradesh;
- (j) “prescribed” means prescribed by the rules made under this Act;
- (k) “SCHEDULE” means THE SCHEDULE appended to this Act; and
- (l) “State” means the State of Himachal Pradesh.

**3. Nodal agency.**—Subject to superintendence, direction and control of the Director, the General Manager, District Industries Centre; the Deputy Director of Industries, Single Window Clearance Agency, Baddi; and the Member Secretary, Single Window Clearance Agencies of different areas, shall be the nodal agency for the areas under their jurisdiction for the purposes of this Act.

**4. Powers and functions of nodal agency.**—(1) Subject to the superintendence, direction and control of the Director, 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 record 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 agency as it may deem fit for giving effect to the provisions of this Act.

**5. Filing of declaration and Acknowledgement Certificate.**—(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.

**Explanation.**— Any enterprise that has moved to the Competent Authority to obtain all or any of the approval(s) before the commencement of this Act and has not received it on the date of commencement, may also opt to furnish declaration of intent to start an enterprise under this sub-section.

(2) On receipt of a declaration complete in all respects, the nodal agency shall, forthwith, issue an Acknowledgement Certificate, in such form as may be prescribed, to the enterprise.

**6. Effect of the Acknowledgement Certificate.**—(1) An Acknowledgement Certificate issued under section 5 shall, for all purposes, have effect as if it is an approval for a period of three years from the date of its issuance or till the date of commencement of commercial production or operation, whichever is earlier:

Provided that subsequent to the issuance of the Acknowledgement Certificate, the enterprise shall adhere to all the requirements for such approval:

Provided further that in case the enterprise fails to adhere to the requirements of the preceding proviso, action as required by or under the law may be initiated against the enterprise.

(2) During the period of three years or till the commencement of commercial production or operation, whichever is earlier, under sub-section (1), no Competent Authority shall undertake any inspection for the purpose of, or in connection with, any approval.

**7. Exemption.**—Where the Government or any authority under it is empowered to exempt any enterprise from any approval or inspection or any provisions in relation thereto under any Central Act, the Government or any such authority, as the case may be, 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 issuance of the Acknowledgement Certificate or till the commencement of commercial production or operation, whichever is earlier.

**8. Protection of action taken in good faith.**—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 for anything which, in good faith, is done or intended to be done, under this Act or any rule made thereunder.

**9. Act to have an overriding effect.**—The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other State law, for the time being in force.

**10. Savings.**—Subject to the provisions of sections 6 and 7, nothing contained 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 specified thereunder, except to the extent expressly provided in this Act.

**11. Power to amend THE SCHEDULE.**—The State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, add to or delete any entry of THE SCHEDULE, or otherwise amend THE SCHEDULE, and thereupon THE SCHEDULE shall be deemed to have been amended.

**12. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Rajpatra (e-Gazette), Himachal Pradesh, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Legislative Assembly.

**13. Power to make rules.**—(1) The State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the State Legislative Assembly, while it is in session, for a period not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive session(s) as aforesaid, the Legislative Assembly makes any modification in the rule or resolves that any such rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**14. Repeal of the Himachal Pradesh Ordinance No. 2 of 2019 and savings.**—(1) The Himachal Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been validly done or taken under the corresponding provisions of this Act.

## THE SCHEDULE

[See section 2(k) and section 11]

Sl. No.	Name of the Act
1.	The Himachal Pradesh Panchayati Raj Act, 1994
2.	The Himachal Pradesh Municipal Corporation Act, 1994
3.	The Himachal Pradesh Municipal Act, 1994
4.	The Himachal Pradesh Fire Fighting Services Act, 1984

5. The Himachal Pradesh Road Side Land Control Act, 1968
6. The Himachal Pradesh Shops and Commercial Establishment Act, 1969
7. The Himachal Pradesh Societies Registration Act, 2006
8. The Himachal Pradesh Town and Country Planning Act, 1977.

### STATEMENT OF OBJECTS AND REASONS

With a view to facilitate new investments, generate more employment and promote entrepreneurship, there is a need to give effect to exemptions from certain approvals and inspections, required for the establishment and operation of new micro, small and medium enterprises. Therefore, it seems necessary and expedient to exempt the persons, on furnishing a declaration of intent to start an enterprise, from taking certain approvals for a period of three years or till the commencement of commercial production or operation, whichever is earlier. This is likely to encourage the establishment of new enterprises, which may significantly contribute in the overall economic growth and development in the State.

Since, the Legislative Assembly was not in session and the exemptions were required to be provided urgently to encourage the investments in the State, therefore, the Himachal Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Ordinance, 2019 (Ordinance No. 2 of 2019) was promulgated under clause (1) of Article 213 of the Constitution of India by the Hon'ble Governor of Himachal Pradesh on 4th November, 2019, which was published in the Rajpatra (e-Gazette) Himachal Pradesh on 5th November, 2019. Now, the Ordinance is being replaced by a regular legislation with some modifications.

This Bill seeks to achieve the aforesaid objectives.

Sd/-  
**(BIKRAM SINGH)**  
*Minister-in-charge.*

DHARAMSHALA:

The ....., 2019.

वन विभाग

अधिसूचना

शिमला-2, 4 नवम्बर, 2019

**संख्या: एफ0एफ0ई0-बी0-एफ0(14)-136/2019.**—भारतीय वन अधिनियम, 1927 (1927 का अधिनियम संख्यांक 16) की धारा 29 की उप-धारा (3) के अधीन यथा अपेक्षित अनुसार इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट वन भूमि या बंजर भूमि में या उस पर सरकार तथा प्राइवेट व्यक्तियों के अधिकारों के स्वरूप और विस्तार की जांच कर ली गई है और उन्हें अभिलिखित कर लिया गया है;

और उक्त अनुसूची में दर्शित वन भूमि या बंजर भूमि, सरकार की सम्पत्ति है, या जिस पर सरकार के सांपत्तिक अधिकार हैं या सरकार उसकी वन उपज के सम्पूर्ण या किसी भाग की हकदार है;