

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

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BILL

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.”


VETTED BY THE
LEGISLATIVE DEPARTMENT
ON 20.12.2021

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: -

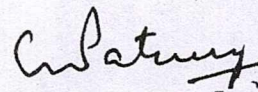
“8. No suit, prosecution or other legal proceedings shall lie against the Government or Nodal Agency/ Designated Officer or competent authority/ Approval Committee or any employee of the Government in respect of anything which is done or intended to be done in good faith under this Act or any rules made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


VETTED BY THE
LEGISLATIVE DEPARTMENT
ON 20.12.2021

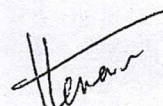
STATEMENT OF OBJECTS AND REASONS

The Bill namely "The Assam Micro, Small and Medium Enterprises (Facilitation Of Establishment And Operation) (Amendment) Bill, 2021" seeks to amend the Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020. Government of Assam 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 Assam investor friendly. It is further considered necessary to have a Bill for time bound delivery of Clearances, Permissions, licenses, NOCs etc. for establishment and operation of the Micro, Small and Medium enterprises in the Notified Industrial Areas as well as Deemed Industrial Areas. Hon'ble Cabinet has accorded approval on the "The Assam Micro, Small & Medium Enterprises (Facilitation of Establishment and Operation) Amendment Bill, 2021".in its meeting held on 10.12.2021.

Hence, the proposal for amendment of the Assam Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020. through "The Assam Micro, Small & Medium Enterprises (Facilitation of Establishment and Operation) (Amendment)Bill, 2021"



Shri Chandra Mohan Patowary
Minister-in-charge



Shri Hemen Das, IAS
Principal Secretary
Assam Legislative Assembly

FINANCIAL MEMORANDUM

There is no financial involvement in the proposed Bill

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MEMORANDUM OF DELEGATED LEGISLATION

There is no delegation of legislative powers to the executive in the proposed Bill

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

Existing provision of Section 2 of the Act	Proposed amendment of Section 2 of the Act
<p>In this Act, unless the context otherwise requires:-</p> <p>(a) "Acknowledgement Certificate" means the acknowledgement certificate issued under section 5;</p> <p>(b) "approval" means any permission, no-objection, clearance, consent, approval, registration, license and the like, required under Law in connection with the establishment or operation of an enterprise in the State of Assam;</p> <p>(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 power of responsibilities to grant or issue approval for establishment or operation of an enterprise in the State;</p> <p>(d) "enterprise" means a micro, small and medium enterprise;</p> <p>(e) "Government" means the Government of Assam.</p> <p>(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;</p> <p>(g) "Nodal Agency" means nodal agency referred to in section 3;</p> <p>(h) "notification" means a notification published in the Assam Gazette and the word "notified" shall be construed accordingly;</p> <p>(i) "prescribed" means prescribed by rules made under this Ordinance.</p> <p>(j) "State" means State of Assam;</p> <p>(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 the Law.</p>	<p>In the principal Act, in section 2, after clause (k), the following new clauses (l), (m) and (n) shall be inserted, namely: -</p> <p>(l) "Notified Industrial Area" means delineated enclave designated by the Government of Assam for setting up of Micro, Small and Medium Enterprises.</p> <p>(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.</p> <p>(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."</p>

Existing provision of Section 4 of the Act	Proposed amendment of Section 4 of the Act
<p>(1) Subject to the Superintendence, direction and control of the Government, the powers and functions of the Nodal Agency shall be as follows:-</p> <p>(a) to assist and facilitate establishment of enterprises in the State; and</p> <p>(b) to maintain the records of Declaration of Intent received and Acknowledgment Certificate issued under this Ordinance.</p> <p>(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 the Act.</p>	<p>In the principal Act, in section 4, after sub-section (2), a new sub -section (3) shall be inserted, namely: -</p> <p>3. In respect of 'Notified Industrial Area' and 'Deemed Industrial Area', the Designated Officer shall have the following powers and functions, namely: -</p> <p>(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.</p> <p>(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.</p> <p>However, approval of Power Connection, Fire Clearance for industrial units shall not be included in the purview of this time limit.</p> <p>(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.</p> <p>(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."</p>
Existing provision of Section 8 of the Act	Proposed amendment of Section 8 of the Act
<p>"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 Ordinance or any rules made thereunder."</p>	<p>In the principal Act, for section 8, the following shall be substituted, namely: -</p> <p>"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."</p>