

AUTHORITATIVE ENGLISH TEXT

H.P. ORDINANCE NO. 2 of 2019

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

Promulgated by the Governor of Himachal Pradesh in the Seventieth Year of the Republic of India.

AN ORDINANCE 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.

WHEREAS, with a view to promoting economic growth, balanced development of all areas and employment generation, the State aims to address the specific needs of the micro, small and medium enterprises and promote entrepreneurship, it is expedient to give effect to exemption from certain approvals and inspections required for enterprises;

AND WHEREAS, the Legislative Assembly of Himachal Pradesh is not in session and the Governor of the State of Himachal Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to promulgate the following Ordinance :—

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

(2) It shall come into force on such date as the Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh appoint.

2. Definitions.—In this Ordinance, 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, 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 or a local authority, statutory body, State owned corporation, Pachayati 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 (Central Act No. 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 Ordinance;
- (k) “SCHEDULE” means the SCHEDULE appended to this Ordinance; and
- (l) “State” means the State of Himachal Pradesh.

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

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 Ordinance.

(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 Ordinance.

5. Filing of Declaration and Acknowledgment 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 so obtain all or any of the approval(s) before the commencement of this Ordinance 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 Acknowledgment Certificate, in the form as may be, prescribed to the enterprise.

6. Effect of the Acknowledgement Certificate.—(1) An Acknowledgment 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 Acknowledge Certificate, the enterprise shall adhere to all the requirements for issuance of 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 issue 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, is done or intended to be done in good faith, under this Ordinance or any rule made thereunder.

9. Ordinance to have an overriding effect.—The provisions of this Ordinance 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 in this Ordinance 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 hereunder, except to the extent expressly provided in this Ordinance.

11. Power to amend the SCHEDULE.—The State Government 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 Ordinance, 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 Ordinance, as may appear to it to be necessary for removing the said 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 Ordinance.

(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 Ordinance.

(2) All rules made under this Ordinance shall be laid, as soon as may be, after they are so 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 they are so laid or of session immediately following, the Legislative Assembly makes any modification in any such rules or agrees that any such rules should not be made, such rules shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

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 Establishments Act, 1969
7.	The Himachal Pradesh Societies Registration Act, 2006
8.	The Himachal Pradesh Town and Country Planning Act, 1977

(BANDARU DATTATREYA)
Governor, Himachal Pradesh.

(YASHWANT SINGH CHOGAL)
Pr. Secretary (Law).

Place: Shimla.
Dated: 05-11-2019.
