



URGENT FEEDBACK ON SINGLE TABLE ACT 2012 OF U.P REQUIRED

(GIVE YOUR COMMENTS TO PROTECT YOUR INTEREST)

IIA Members,

Govt of U.P is coming out with Uttar Pradesh Single table Act-2012. Draft of this act is attached herewith. Govt. of U.P have approached IIA to submit comments on this draft of the Act immediately and a meeting to discuss these comments will be held on 28th August 2012.

As such, an urgent feed back of the members of IIA is required so that IIA is able to protect their interests.

You are therefore requested to mail back your comments immediately latest by 26th August 2012.

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General secretary



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Uttar Pradesh Single Table Act 2012

ACT NO.....OF 2012

AN ACT TO PROVIDE FOR SPEEDY PROCESSING TO ISSUE OF VARIOUS LICENSES, CLERANCES AND CERTIFICATES REQUIRED FOR SETTING UP OF ENTERPRISES AS DEFINED IN MSMED ACT 2006 FOR THE PROMOTION OF INDUSTRIAL DEVELOPMENT AND ALSO TO PROVIDE FOR AN INVESTOR FRIENDLY ENVORONMENT IN THE STATE OF UTTAR PRADESH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Whereas, it is expedient to provide for speedy implementation of industrial and other projects in the State, by providing single point clearances to promoters and to ensure early commercial production of such projects;

Be it enacted by the legislative Assembly of the State of Uttar Pradesh in the sixty-third Year of the Republic of India as follows:—

CHAPTER – I

PRELIMINARY

Short title, Extent and Commencement

1. (1) This Act may be called the Uttar Pradesh Industrial Single Window Clearance Act, 2012.
- (2) It extends to the whole of the State of Uttar Pradesh.
- (3) It shall be deemed to have come into force with effect on and from the.....

Definitions

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

- (1) “Clearances” means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrollments, licenses and the like, by any competent authority or authorities in connection with the setting up of an enterprise in the State of Uttar Pradesh and shall include all such clearances required till the undertaking starts commercial production;
- (2) “Competent Authority” means any department or agency of the Government, Authorized Agency, Gram Panchayat, Municipality or other local body, which are entrusted with the powers and responsibilities to grant or issue clearances;
- (3) “District Committee” means the district Single Window Clearance Committee constituted under section 3;
- (4) “Empowered Committee” means the Committee notified by the Government under section 6;
- (5) “Government’ means the Government of Uttar Pradesh;
- (6) “Enterprise” means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the State Government.

IIA’s Comment:-

“activity as may be specified by the State Government” may be replaced by “Activity as may be specified under MSMED-Act 2006 by the Ministry of MSME, Govt. of India”

- (7) “Nodal Agency” means the agency notified at the State level or at the District level under section 8;
- (8) “Notification” means a notification published in the Uttar Pradesh Gazette and the word ‘notified’ should be construed accordingly;
- (9) “Prescribed’ means prescribed by rules made under this Act;
- (10) “Special Committee; means the Special Single Window Clearance Committee constituted under section 5;
- (11) “High power committee” means the committee notified by the Government under section 7;

- (12) “State Committee” means the State Single Window Clearance Committee constituted under section 4.

CHAPTER – II

CONSTITUTION, POWERS AND FUNCTIONS OF THE DISTRICT, COMMITTEE

<p>Constitution and Powers and functions of District committee</p>	<p>3.(1) The State Government may, by notifications, constitute a District Single Window Clearance Committee for each district, which shall consist of the District Magistrate as the Chairman and eight other members for such term as may be specified in the notification.</p> <p>IIA’s Comment:- “Four out of the 8 Permanent Committee Members shall be from state level Industry Associations out of which at least two will be from MSME Association”.</p> <p>(2) The District Committee shall exercise the following powers and perform the following functions namely:↯</p> <p>(i) to meet at such times and places as the Chairman of the Committee may decide and shall transact business as per the procedure as may prescribed;</p> <p>ii.) to receive applications for all clearances for setting up Enterprises with proposed investment upto the amount notified under section 21;</p> <p>iii.) to review and monitor the processing of applications by the competent authorities and to forward the orders of the competent authorities to the applicant;</p> <p>iv.) to inform the applicant of the date on which the application was received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval;</p> <p>v.) to forward cases with remarks and relevant documents to the State Committee for decision under section 17;</p> <p>vi.) to invite Competent authorities or experts, who are not members of the Committee, as special invitees for any meeting of the District Committee as desired by the Chairman of the Committee;</p> <p>vii.) the Member of the District Committee shall attend the</p>
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	<p>meeting convened under clause (i) personally and in case he is unable to attend the meeting, he may depute a senior level Officer with a written authorization to take appropriate decision in the meeting;</p> <p>viii.) such other powers and functions as may be prescribed.</p>
<p>Constitution, powers and functions of State Committee</p>	<p>4. (1) The Government may, by notification, constitute a State Committee known as the State Single Window Clearance Committee, which shall consist of the Ind Dev Commissioner as the chairman with ten other members for such term as may be specified in the notification.</p> <p>IIA's Comment:- "Five out of the 10 Permanent Committee Members shall be from state level Industry Associations out of which at least two will be from MSME Association".</p> <p>(2) The State Committee shall exercise the following powers and perform the following functions namely:-</p> <p>(i) to meet at such times and places as the Chairman of the Committee may decide and shall transact business as per the procedure as may be prescribed;</p> <p>(ii). to receive all applications for clearances for setting up industrial units with proposed investment more than the amount notified under section 21;</p> <p>(iii). to review and monitor the processing of applications by the Competent authorities and District Committees and to forward the orders of the competent authority to the applicant;</p> <p>(iv). to inform the applicant of the date on which the application is received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval;</p> <p>(v). to forward cases with remarks and relevant documents to the Empowered Committee for decision under section 19;</p> <p>(vi). to invite competent authorities or experts, who are not members of the Committee, as special invitees for any meeting as desired by the Chairman of the State Committee;</p> <p>(vii). the Member of the State Committee shall attend the meeting convened under clause (i) personally and in</p>

	<p>case he is unable to attend the meeting, he may depute a senior level officer with a written authorization to take appropriate decision in the meeting;</p> <p>(viii). such other powers and functions as may be prescribed.</p>
<p>Constitution, powers and functions of Special Committee</p>	<p>5. (1) The Government may, by notification, constitute Special Single Window Clearance Committees for any specified purpose Specified are or specified sector and delegate to them such powers and functions as the Government may deem fit.</p> <p>(2). The Special Committee shall consist of such number of members of whom one shall be nominated by notification as Chairman by Government.</p> <p>IIA's Comment:- When there is a provision of inviting competent authorities or experts in the District and State Committees then there should not be any need of a special Committee because too many committees also delay the process hence this clause should be deleted.</p>
<p>Constitution and Functions of Empowered committee</p>	<p>(6) (1) The state government may constitute state empowered committee with Chief Secretary as chairman and such other members as Govt may deem fit</p> <p>IIA's Comment:- "50% Permanent Committee Members shall be from state level Industry Associations out of which at least two will be from MSME Association".</p> <p>(2) The Empowered Committee shall,</p> <p>(i) review and monitor the disposal of applications by the District Committees and State Committee, and competent authorities;</p> <p>(ii) Consider and decide cases under sections 18 and 19;</p> <p>(iii) Exercise such other powers and perform such other functions as may be prescribed.</p> <p>(3) The powers and functions entrusted to the Empowered Committee under the provisions of this Act shall be in addition to the regular powers exercised and functions discharged as the advisory body to High Power Committee regarding promoting industrial investment in the State.</p> <p>(4) The decisions of the Empowered Committee shall be binding on the State Committee, District Committees and</p>

	the Competent Authorities.
Constitution, Powers and functions of High Power Committee.	<p>7.(1) The Government may notify the High Power committee with CM as chairman and such other members as government may deem fit.</p> <p>IIA's Comment:- "50% Permanent Committee Members shall be from state level Industry Associations out of which at least two will be from MSME Association".</p> <p>(2) The High Power Committee shall, -</p> <p>(i) review and monitor the disposal of applications by the District Committees, State Committee and competent authorities;</p> <p>(ii) consider and decide cases under section 20 and cases referred under proviso to section 17 (2) and proviso to section 19 (2);</p> <p>(iii) exercise such other powers and perform such other functions as may be prescribed.</p> <p>(3). The High Power Committee will be the supreme body regarding all the matters relating to industrial development of the state.</p> <p>(4). The orders passed by this committee for issuing clearances shall be final and binding on the Empowered committee, State Committee, District Committees and the Competent Authorities The HPC will also act as investment promotion board for the state and lay down any policy for the purpose.</p>
Constitution, powers and Functions of Nodal Agency	<p>8. (1) The State Government may, by notification, appoint Udyog Bandhu as nodal agency at the State level, which shall be a cell headed by an officer not below the rank of Additional Director of Industries and including such supervisory and secretarial staff as may be required.</p> <p>(2) The State Government may notify the District Industries Centre as Nodal Agency at the district level.</p>
Powers and functions of Nodal Agency.	<p>9.(1) The Nodal Agency shall provide secretarial support to the District Committees and the State Committee, as the case may be.</p> <p>IIA's Comment:- Who will provide secretarial support to the Empowered Committee and High Power Committee is not specified in the draft. It is suggested that the State Nodal Agency should provide</p>

	<p>secretarial support to these apex committees also.</p> <p>2) Under the superintendence, direction and control of the respective committees, the nodal agency shall acknowledge all applications filed before the Committee and shall forward the applications to the concerned competent authority within three working days. The Nodal Agency shall pursue the clearance of the applications with the competent authorities.</p> <p>IIA's Comment:- The Nodal Agency should scrutiny the applications and facilitates, help and guide the entrepreneurs to fill complete & correct applications online through Single Table System Website / Nivesh Mitra website. The applications so filed will be forwarded online to the competent authorities by the Nodal Agency and acknowledgement of the application will be provided online to the entrepreneurs within 3 working days from the date when the entrepreneur's filed his application online. Industry Association will also be involved to help entrepreneurs to fill applications online and co-ordinate with Nodal Agencies for filing applications correctly.</p>
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CHAPTER – III

MISCELLANEOUS

<p>Powers and functions of Nodal Agency.</p>	<p>10. (1) All applications for clearances shall be submitted with the required fees in the prescribed manner to the appropriate committee.</p> <p>(2). The applications shall be forwarded by the Committee to the competent authority for processing and disposal.</p> <p>IIA's Comment:- Provision for online submission of application should be incorporated to avoid human interface. Application should be processed by the Nodal Agency and not by the committee.</p>
<p>Power to call additional Information.</p>	<p>11. (1) On receipt of application under sub-section (2) of section 10, the competent authority shall have power to obtain further additional information from the applicant as required by him, while furnishing a copy of the same to the Nodal Agency.</p> <p>IIA's Comment:- Direct interface of the applicant with the complete authority should be avoided. All information's and clarifications should essentially be routed through Nodal Agencies and monitoring should be online.</p> <p>(2).The applicant shall furnish the required information to the</p>

	<p>competent authority and also to the Nodal Agency simultaneously.</p> <p>(3). The competent authority shall send its orders sanctioning or rejecting the application, as the case may be, to the Nodal Agency so that the same can be given to the applicant.</p> <p>IIA's Comment:- The orders should also be made available online and in case of rejections the reasons for rejections should be recorded clearly.</p>
<p>Combined forms (CAF) Application</p>	<p>12. (1) It shall be competent for the Government to prescribe combined application forms which may consist of, - forms under Central enactments without any change; and existing forms or new forms in lieu of the existing forms under State enactments</p> <p>(2) All Departments or authorities concerned shall accept such application forms for processing and issue of required clearances.</p>
<p>Self Certification.</p>	<p>13.(1) Every entrepreneur shall furnish a 'Self Certification' at the time of submitting application form to the Nodal Agency, undertaking in such form as may be prescribed that he shall comply with the applicable provisions of the relevant Acts and the rules made there under.</p> <p>(2) The self certification furnished by the entrepreneur shall be accepted by the concerned Departments and authorities for the purpose of issue and granting clearance.</p>
<p>Time Limits for processing of applications</p>	<p>14 Notwithstanding anything contained in any State law for the time being in force, -</p> <p>(1). the Government may lay down the procedure for processing and disposal off applications.</p> <p>(2). the Government may prescribe time limits for processing and disposal of applications by the competent authorities.</p> <p>(3). The competent authority may ask for additional information at any time before the expiry of the period stipulated for the disposal of such clearance; Provided that such request for additional information should be made only once by the competent authority.</p> <p>(4). After receipt of the additional information, the competent</p>

	<p>authority shall pass orders on the application before the expiry of the stipulated time from the date of receipt of such additional information.</p> <p>IIA's Comment:- Once the application is scrutinized thoroughly by the Nodal Agency, all required documents are submitted and a self Certification is also submitted by the Entrepreneur then no additional information should be asked for because this will unnecessarily delay the clearances and the harassment of the entrepreneur will not be stopped. Hence subsection 3&4 should be deleted.</p>
<p>List of Deemed Approvals.</p>	<p>15. (1) While prescribing time limits under section 14, the State Government may notify the clearances in respect of which failure of the competent authority to pass final orders on the application within the stipulated time shall result in deemed approval.</p> <p>IIA's Comment:- Authority for issuing deemed approval should be clearly specified.</p> <p>(2) The applicant may proceed to execute the work or take other action following the deemed approval, but not so as to contravene any of the provisions of the Acts or rules or bye-laws applicable to such clearances.</p> <p>IIA's Comment:- When deemed approval is the same as final orders then there is no need to insert this subsection, hence may be deleted.</p>
<p>Information of Deemed Approval.</p>	<p>16. The appropriate Committee shall inform to the applicant the Information of date on which the application was received by the competent authority and the date on which it was deemed to have been approved.</p> <p>IIA's Comment:- If Committee is required to communicate deemed approval to the entrepreneurs then the process will be delayed as the committee might not meet every now and then whenever stipulated time period is over. Hence, the deemed approval should be issued by the GM's at District level and Adl. Director Industries level officer in State Udyog Bandhu, immediately after the stipulated time period is over.</p>
<p>Review of District level cases.</p>	<p>17. Notwithstanding anything contained in any State law, for the time being in force, -</p> <p>(1). The District Committee may, either suo motu or on an application, examine any order passed by any competent authority, rejecting any clearance or approving it with modification, and if the District committee considers that</p>

	<p>there are valid grounds for a change in such decision, it shall forward such case to the State Committee with remarks and relevant documents for a decision.</p> <p>(2). The State Committee shall examine all cases referred to it by the District Committee and pass appropriate orders; Provided that the cases relating to the orders passed by the Government as competent authority shall be referred to the High Power Committee for decision.</p> <p>(3). The decision taken by the State Committee shall be binding on the District committee and the Competent authorities.</p>
Revision of District level cases by State Committee.	18. Notwithstanding anything contained in any State law, for the time being in force, the State Committee may, either suo motu or on a reference, examine any orders passed by the District Committee and pass appropriate orders as it deems fit and such orders shall be final.
Review of State Level cases.	<p>19. Notwithstanding anything contained in any State law, for the time being in force, -</p> <p>(1). The State Committee may, either suo motu or on an application, examine any order passed by any competent authority, rejecting any clearance or approving it with modification, and if the State Committee considers that there are valid grounds for a change in such decision, it shall forward such case to the Empowered Committee with remarks and relevant documents for a decision.</p> <p>(2). The Empowered Committee shall examine all cases referred to it by the State Committee and pass appropriate orders; Provided that the cases relating to the orders passed by the Government as competent authority shall be referred to the High Power Committee (State Investment Promotion Board) for decision.</p> <p>(3). The decision taken by the Empowered Committee shall be binding on the State Committee, District committees and the competent authorities.</p>
Revision of State level cases by Empowered committee	20. Notwithstanding anything contained in any State law, for the time being in force, the empowered committee may, either suo motu or on a reference, examines any orders passed by the state Committee and pass appropriate orders as it deems fit and such orders shall be final.

	21. The Government may by notification specify the investment limit upto, which the applications for clearances shall be made to the District Committees.
Exemption.	22. The State Government may, by notification, exempt any clearances from any of the provisions of the Act.
Penalty.	23. Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to five thousand rupees for the first offence and for the second or subsequent offences with fine which may extend to ten thousand rupees.
Offences by Companies, etc.,	<p>24.(1) Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p>Explanation:- For the purpose of this section:-</p> <p>a). "Company" means anybody Corporate and includes a firm or other association of individuals; and</p> <p>b). "Director" in relation to a firm means a partner in the firm.</p> <p>IIA's Comments:- a) Who will decide on the offence is not clear. We suggest that it should be vested with State Committee only.</p>

	<p>b) Accountability on Govt. officers & Departments should also be incorporated in this section whether it is related to delay in passing the orders or any neglect or connivance etc.</p>
Act to override other Laws.	25. Save as otherwise provided in this Act, the provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.
Powers to remove doubts or difficulties.	26. If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make provisions or give such directions, not inconsistent with the provisions of this act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty.
Powers to give directions.	27. The State Government may, from time to time, issue to the State Committee or the district Committees such general or special directions of policy as they may deem necessary or expedient for the purpose of carrying out the objects of this Act and the said State Committee or the District Committees, as the case may be, shall be bound to follow and act upon such directions
Savings.	28. The provisions of sections 13 to 20 of this Act shall not apply to any clearances required under Central enactments.
Power to make rules.	29. (1) The Government may be notification make rules for carrying out all or any of the purposes of this Act. (2) Every rule made under this Act, shall immediately after it is made be laid before the Legislative Assembly of the State, if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expire of session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.