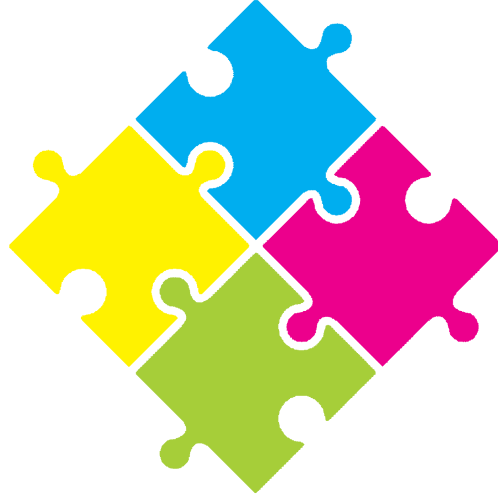


Bihar Industrial Investment Promotion Rule 2016

**बिहार औद्योगिक निवेश प्रोत्साहन नियम
2016**



DEPARTMENT OF INDUSTRIES
Government of Bihar

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Bihar Industrial Investment Promotion Rules - 2016

In exercise of the powers conferred by section 16 of The Bihar Industrial Investment Promotion Act, 2016 The State Government of Bihar is pleased to make the following Rules for carrying out all or any of the purposes of the Act:

1. Short title, extent and commencement:

- (1) These rules may be called "The Bihar Industrial Investment Promotion Rules, 2016."
- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall come into force on such date of its publication in the Bihar Official Gazette.

2. Definitions:

(1) In these rules, unless otherwise requires in the context:

- (a) "Act" means the Bihar Industrial Investment Promotion Act, 2016;
- (b) "Board" or "State Board" means State Investment Promotion Board as defined under Section 4 of the Act;
- (c) "Clearance" means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrolments, licenses and the like, by any competent authority or authorities in connection with the setting up of an industrial undertaking in the State of Bihar and shall include all such clearances required till the industrial undertaking starts commercial production;
- (d) "Commissioner" means any person appointed by the State Government to act as Industrial Development Commissioner;
- (e) "Common Application Form" means combined application form for investment and clearances as notified by the State Government from time to time.
- (f) "Company" means any body corporate and includes a firm or other association of individuals;
- (g) "Competent authority" means any department or agency of the State Government, which is entrusted with the powers and responsibilities to grant or issue clearances, and shall include Gram Panchayats, Panchayat Samitis, Zila Parishads, Municipalities, Municipal Corporations and Development Authorities;
- (h) "Department" means the Department of Industries of the Government of Bihar;
- (i) "Enterprise" shall have the same meaning as in Section 2 (e) of The Micro, Small and Medium Enterprises Development Act, 2006 [No. 27 of 2006];
- (j) "Fee" and "Deposits" shall mean the amounts prescribed by Acts and Rules of the respective competent authorities for according clearance/ approval/consent or any other type of statutory permission which are within the competence of that authority.
- (k) "Incentive" means such financial and non-financial benefits provided to the investor from time to time under the Policy;

- (l) “Online” means connected by computer to one or more other computers or networks such as the Internet.
 - (m) “Policy” means the Bihar State Industrial Investment Promotion Policy
 - (n) “Public Authority” shall mean any office responsible for implementation of the various acts and it includes all Competent Authorities defined in section 2(f) of the Act;
 - (o) “Rule” means The Bihar Industrial Investment Promotion Rules, 2016;
 - (p) “Secretariat” means Secretariat of State Investment Promotion Board as defined under Section 5 of the Act;
 - (q) “State Government” means the State Government of Bihar ;
 - (r) “Udyog Aadhar” means such registration of industrial units as are laid down by the Union Ministry of Micro, Small and Medium Enterprises from time to time.
- (2) **All other words and expressions used herein but not defined shall have the same meanings respectively assigned to them in the Act.**

3. Constitution of State Investment Promotion Board:

- (1) The constitution of the State Investment Promotion Board shall be as per Section 4 of the Act.
- (2) The tenure of the nominated members shall be two years or as decided by the Government, whichever is earlier.

4. Procedure of the State Investment Promotion Board :

- (1) The Board shall meet every month on a fixed date to be announced by the Department at the previous meeting of the Board. In case the date so fixed falls on a holiday, the meeting shall be held on the next succeeding date without any further notice.
- (2) The State Board may hold more than one meeting in a month as decided by the Chairman of the State Board however it shall be mandatory to hold at least one meeting every month.
- (3) The meeting shall not be postponed due to the absence of any member including the Chairman. In the absence of the Chairman, the next senior most official member shall preside over the meeting.
- (4) Membership of the Board is by designation and substitution by another functionary may be permitted only in extra ordinary circumstances with the permission of the Chairman.
- (5) There shall be a quorum of five members excluding the Chairman for the meeting of the Board. No decision on an item shall be deferred for want of representation by any Department or Agency.
- (6) Proposals placed for consideration before the Board shall be either approved or appropriate decision shall be taken. In case the Board decides to defer the matter for any clarifications, the reason shall be properly recorded in the proceedings.
- (7) The Board shall review the working of the Secretariat monthly, with particular

reference to the adherence to time limits and the completeness of proposals placed before the Board.

- (8) The Board shall take a decision on the following:
 - (i) Review the list of clearances to be provided by the Secretariat
 - (ii) Review the list of clearances to be provided on the basis of self declaration
 - (iii) Approval of Common Application Form
 - (iv) Review the Fees and Deposits for application under SIPB
 - (v) Guide and advise the Department on issues and clarifications related to the Policy
- (9) The Board shall review the following issues as part of the Agenda in every meeting of the Board:
 - (i) Review the status of investment proposal and its approval status
 - (ii) Review the status of investment proposals approved by the Board and their implementation status
 - (iii) Review the status of clearances accorded to the approved investment proposal
 - (iv) Review the number of investment proposals where deemed approval had to be granted and reason for according such deemed approval
 - (v) Review the bottlenecks in obtaining clearances for approved proposals and undertaking necessary actions to resolve
 - (vi) Review the status of loan sanctioned and approved by banks/ Financial Institutions to the approved proposals
 - (vii) Review the implementation of the policy
 - (viii) Review the status of financial incentives processed and disbursed
 - (ix) Any other functions as assigned by the State Government from time to time.
- (10) The Board shall recommend action against the competent authority if the competent authority has not carried the prescribed responsibility under the act.

5. Secretariat of the State Investment Promotion Board:

- (1) The Secretariat shall have the members mentioned in Section 6(2) of the Act. The Secretariat shall be assisted by professionals to carry out the appraisal of the projects and support the activities defined in Section 6(3) of the Act and rule 5(2). The State Government shall decide the staff strength of the secretariat.
- (2) The Secretariat shall undertake all the functions laid down below:
 - (i) receive, process and make available all required clearance to all new investment proposals including modernization, up gradation and expansion of existing industrial units.

- (ii) Plan, design and implement campaigns to promote Bihar as investment destination within and outside the country;
 - (iii) arrange to receive and process Common Application Forms and ensure that all clearances are given within the time limits to be prescribed under this rule;
 - (iv) collect prescribed fees and deposits on behalf of the competent authority for grant of clearance and transfer the fees and deposits to the respective accounts.
 - (v) convey such clearances to the applicant and where there are deficiencies in the application, convey such deficiencies to the applicant and get these rectified;
 - (vi) collate and furnish statistical information on investment by sectors, product and scale, collect all relevant statistical information and provide to Union and state authorities as and when required; and
 - (vii) prepare sector and product wise information for prospective investors and disseminate through web sites, print and visual media and other means as may be directed by the Department.
- (3) The Secretariat shall also be responsible to prepare reports on a monthly basis for various activities listed in rule 4(9) which shall be placed before the Board for appropriate decision.
- (4) The Secretariat shall also be responsible for efficient management of the Department's online initiatives like Udyog Mitra and Udyog Samwad.
- (5) The Secretariat shall be responsible to ensure that the procedure laid down in section 6(4) of the Act is followed and the timelines prescribed are adhered to. It shall be the duty of the Secretariat to bring to the attention of the Chairman of the State Board any deviation in the procedure. The Chairman may issue suitable instruction for the day-to-day working of the Secretariat, not inconsistent with the procedure laid down in the Act.

6. Integrated Clearance System:

- (1) An online system will be used to provide clearance and approval to investment proposals as per provision made in Rule 6(3).
- (2) The clearances to the investment proposals will be provided online and in four stages as prescribed below:
- (i) **Stage I Clearance:** Stage I clearances refers to examining the feasibility of the project by the State Board and providing necessary approval to the investor. The Secretariat shall examine the investment proposal in the manner prescribed by the State Board and place the proposal before the State Board for a decision as per provisions made in Rule 4. Stage I clearance will allow investor to apply for subsequent stages of approval. The Stage I shall necessarily identify the broad sector, quantum of investment and location etc. of the proposed investment. The Board may prescribe a list of information that may be required to be furnished along with the proposal for Stage I Clearance.

- (ii) Stage II Clearance: Stage II clearance refers to clearances requested by an investor at the pre-establishment stage from the Secretariat before setting up of an industry. List of pre-establishment stage clearances will be notified by the Department from time to time. These clearances shall be provided as per the provisions made in Section 6(4) of the Act.
- (iii) Stage III Clearance: Stage III clearance refers to clearances requested by an investor at the pre-operation stage from the Secretariat before commencement of commercial production. List of pre-operation stage clearances will be notified by the State Government from time to time.

These clearances shall be provided as per the provisions made in Section 6(4) of the Act.

- (iv) Financial Incentive clearance: Financial Incentive clearance refers to the clearance requested/accorded to an investor for availing financial incentives. The quantum of incentives to be given shall be decided at this stage as per the Policy. This clearance may be granted anytime after Stage I approval by the designated Authority of the State Government after completion of the required prerequisites as decided by the Board. This shall be an automatic process and no fresh application shall be required from the investor. The proposals shall be placed before the State Board in its next meeting on fulfilling of the prerequisites for a decision. The State Board shall recommend the quantum of incentives applicable to the investment proposal. The final approval of the Financial Incentives shall be given as per the provision of Rule 7. The actual disbursement of incentives shall be as per actual implementation of the investment proposal.
- (3) Processing and Monitoring of Common Application Forms An integrated online system will accept and electronically transfer applications to respective Competent Authorities as well as track & monitor status of the application. Under this system,
- (i) The common application form along with prescribed attachments shall be submitted/ uploaded online.
 - (ii) The competent authority may ask for additional information from the applicant only once, within first 7 days, through the online portal only.

The reply to the additional information shall only be submitted online by the applicant.
 - (iii) In case the additional information is not sought for by the competent authority within the prescribed time limit from the date of receipt of application, it will be construed that no additional information is required and original time limit for clearance shall apply and the competent authority shall decide on the basis of the documents submitted by the applicant.
 - (iv) In case the additional information is sought for by the competent authority within the prescribed time limit, the time limit prescribed in Section 5 and Section 6(4) of the Act shall be counted from the date on which the additional information is furnished by the applicant online.

- (v) The competent authority shall process the application and communicate the decision (approve/reject the request along with his comments) within the time limit prescribed in Section 5 and Section 6(4) of the Act to the applicant.
 - (vi) Applicant will be allowed an option to file for all clearances at once or may choose to apply at various intervals. In case an application for clearance is rejected the applicant may be allowed to file application for the clearance afresh.
 - (vii) Every approval/ certificate will be given a unique Single Window Clearance ID which can be used for third party verification of approvals in public domain.
- (4) Special provisions and measures to simplify process & procedures: Spot approvals shall be given in case of clearances which require only a scrutiny of basic documents. A list of such clearances will be notified by the Department on the advise of the State Board from time to time.
- (5) Fees for processing applications: Fees and deposits shall be collected from the applicant during various stages of clearances by the secretariat. Application processing fees will be notified by the Department on the advise of the State Board from time to time.
- (6) Rationalization of the inspection for clearances: A joint inspection by all the competent authorities shall be encouraged for the clearances which require inspection.

7. Financial Incentives to eligible industrial units :

- (1) The proposals cleared under rule 6(2) (iv) shall be put up before the competent authority for a decision. All proposal approved in a meeting of the State Board shall be placed before the competent authority in one lot. Decisions shall be taken in the same sequence in which the State Board approves the proposals. In case a proposal has to be approved out of turn, sufficient reasons for such deviations shall be recorded and approved by the Commissioner.
- (2) The competent authority and the time limit to accord approval and decision of Financial Incentives shall be as follows:
- (i) The Commissioner within a time limit of 15 days shall take a decision on the proposals, which involve investment of Rs. 2.5 Crore and less. If the decision on the proposal is not taken within the prescribed timeline, the reason for delay shall be recorded.
 - (ii) Proposals which involve investment of more than Rs. 2.5 Crore and up to a limit of Rs. 10 Crore shall be decided by the Minister, Department of Industries within a time limit of 15 days.
 - (iii) Proposals which involve investment of more than Rs. 10 Crore and up to a limit of Rs. 20 Crore shall be decided jointly by the Minister, Department of Industries and Minister, Department of Finance. The Minister, Department shall decide within 15 days and subsequently the Finance Minister shall take a decision within the next 15 days.
 - (iv) Proposals above Rs. 20 Crore shall be decided by the State Government.

- (3) The State Government shall revise the above mentioned time limits, financial limits and competent authority, from time to time, through notification.
 - (4) Incentives, once sanctioned, shall be disbursed by the Secretariat without any further reference, to any authority in a time bound manner subject to any conditions which may be attached to the sanction.
- 8. Self-certification:** The Commissioner shall issue instruction for random verification of self-declaration under section 8 of the Act. Verification shall be conducted by the Secretariat or shall direct a public authority to conduct an enquiry, which shall submit its findings to the Chairman for necessary action.
- 9. Deemed Approval:**
 - (1) In case the competent authority fails to issue the clearance within the time limit as specified in Section 6(4) of the Act, the Secretariat shall communicate the deemed approval in the form prescribed by the concerned department with a copy to the concerned Department. The Secretariat shall designate officers for issuing all such deemed clearances.
 - (2) The deemed approval shall take effect from the date on which the time limit for such clearance has expired.
 - (3) In the eventuality of delay of clearances resulting in issue of deemed approval, the competent authority shall be liable for imposition of penalty as per extant rules.
- 10. Grievance/Appeal:**
 - (1) In the first instance, all grievances will be referred to the Commissioner. All grievances will be disposed within 30 days by the Commissioner.
 - (2) The applicant can submit and track his/her grievance through an online system.
 - (3) In order to effectively answer the investor queries regarding policies, approvals, incentives, application process, single window etc., a centralized helpline number will be notified by the State Government.
- 11. Power to give directions:**
 - (1) The State Government may, from time to time, issue to the State Board or the Secretariat such general or special directions of policy as may be deemed necessary or expedient for the purpose of promoting investment in the State.
 - (2) The Commissioner shall have power to give direction to the Public Authority to carry out investigation, enquiry and seek a report on issues related to clearance under the various acts required for investment proposals within a prescribed time limit.
- 12. Penalty :**
 - (1) Any public authority who fails to comply with the directions of the State Board and the Secretariat within the prescribed time shall be liable to conviction / punishment as per Section 11(1) of the Act.
 - (2) Further, designated official(s) of the concerned Public Authority not complying with

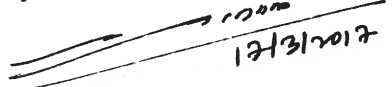
the defined timelines for providing clearances, without sufficient and reasonable cause, shall be liable for action as per their respective service rules.

Provided that the designated officer(s) of the Competent Authority shall be given a reasonable opportunity of being heard before any penalty is imposed.

- (3) Any applicant who fails to comply with the declarations or undertaking given to the Secretariat or other concerned departments shall be liable to conviction / punishment as per instant legal provisions.

13. Miscellaneous: The Government may issue guidelines not inconsistent with the provisions of the Act and these Rules for smooth implementation of the provisions of these rules.

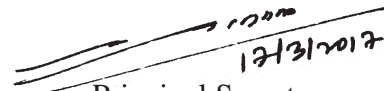
By order of Governor of Bihar


Principal Secretary to the Govt. of Bihar

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Principal Secretary

Department of Industries, Bihar, Patna.

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Principal Secretary

Department of Industries, Bihar, Patna.