

**THE PUDUCHERRY EASE OF DOING BUSINESS (SERVICE
DELIVERY) BILL, 2021**

BILL No. _____ 2021

A

BILL

to provide for speedy, transparent, efficient and time bound delivery of services by way of processing the application and issue of various clearances required to be issued by various Competent Authority or Authorities of the Government of Puducherry under various enactments for establishing an Industrial or service or business undertakings including renewals in time bound manner for the promotion of economic development and for an investment friendly environment in the Union territory of Puducherry and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Puducherry in the Seventy First Year of the Republic of India as follows:-

**Short title,
extent and
commencement**

1. (1) This Act may be called the “Puducherry Ease of Doing Business (Service Delivery) Act, 2020”;
- (2) It extends to the whole of the Union territory of Puducherry;
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires, -
 - (a) “Applicant” means a person duly authorized by an enterprise to file an application on behalf of the enterprise through online or in person and the word “Application” shall be construed accordingly;

(b) “Appellate Authority” means the authority referred to under Section 8(3);

(c) “Appropriate Authority” means the authority appointed under Section 9;

(d) “Checklist” means list of documents / evidences to be furnished by the applicant along with the Application Form as may be prescribed;

(e) “Clearances” means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrolments, licenses and the like ones, by any Competent Authority or authorities in connection with the setting up of an enterprise or expansion of an existing enterprise in the Union territory Puducherry and shall include all such approvals essentially required till the enterprise starts commercial production and includes periodic renewals that may inevitably be required for such clearances;

(f) “Competent Authority” means any Department or Agency of the Government, Corporation, Board, Local Body or other authority established by the Government, which are entrusted with the powers or responsibilities to grant or issue of clearances or incentives;

(g) “Department” means a department of the Government;

(h) “Deemed Approval” means the approval as specified under section 6;

(i) “Designated Officer” means an officer identified by a Competent Authority for processing of individual clearances;

(j) “Enterprise” means an undertaking that intends to engage in or is engaged in any or all of the activities, namely, manufacturing, processing, providing services or engaging in business/trade;

(k) “Government” means the Administrator appointed by the President under Article 239 of the Constitution;

(l) “Nodal Agency” means the agency referred to in section 10;

(m) “Notification” means a notification published in the official Gazette of Government of Puducherry and the word “Notified” shall be construed accordingly;

(n) “Prescribed” means prescribed by the rules made under this Act;

(o) “Service” means services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority for issue of clearance;

(p) “Stipulated time” means the maximum time excluding public holidays to provide the applied / requested service by the public authority;

(q) "Schedule" means the Schedule appended to this Act.

Notification of designated officers, procedure and checklist for processing of applications.

3. (1) Notwithstanding anything contained in any law for the time being in force, the Competent Authority, within a period of three months from the date of commencement of this Act, with the approval of Government, shall notify the Checklist and the procedure for processing and disposal of applications and designate Officer/Officers for providing services under this Act.
- (2) The Checklist and the Procedure shall be made available on the website of the Department by the Competent Authority.

Application for Clearance.

4. (1) An applicant shall apply through online for clearance in the prescribed form with necessary particulars and supporting documents as prescribed in the checklist:

Provided that the Government may allow submission of physical application during transitional period, till such time, as it may notify.

- (2) Every application received, shall be given a number by the Designated Officer or by the online system to enable the applicant to monitor the status of the application in accordance with such procedure as may be prescribed.
- (3) If the application is submitted to an Authority other than the Competent Authority or designated Officer or subordinate public servant for clearance, then the officer who received the application shall forward it to the concerned designated Officer within 3 days on receipt of the application and for such application 5 days additional time

shall be added to the stipulated time.

Disposal of application.

5. (1) The Designated Officer as notified under section 3 of this Act shall, on receipt of the application, consider and dispose it by passing an order either approving or rejecting the same within the stipulated time as mentioned in the Schedule.

(2) The Designated Officer shall have the powers to seek additional information or clarification, if required, from the applicant:

Provided that the additional information or clarification shall be sought for only once before the expiry of the time limit prescribed in the Schedule.

(3) The stipulated time shall start from the date of application or additional information or clarification is submitted to the Designated Officer.

(4) The Designated Officer shall give reasons in the order, in case, the application is rejected.

(5) The signed final order of rejection shall be made available online to the applicant in downloadable format.

Deemed Approval.

6. (1) In case of failure to issue the required approval within the time limit specified in the Schedule, such approvals shall be deemed to have been issued and the entrepreneurs may proceed with the implementation of the project without contravening any of the provisions of the Act, rules, bye-laws, notifications, standing orders, executive instructions, guidelines and regulations made by the Competent

Authority concerned for such clearances:

Provided if any deviations by the applicant with respect to the provisions of the relevant statute are detected, the Competent Authority shall be take action as deemed fit against the applicant under the concerned Statute.

- (2) The deemed approval shall be made as an automatic process in the online system and made available to the applicant in downloadable format.

Appeal

7. (1) Any applicant aggrieved by a decision of the Competent Authority or Designated Officer may, within thirty days from the receipt of such decision, prefer an appeal to the Appropriate Authority:

Provided that the Appropriate Authority may admit the appeal after the expiry of the period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) In its decision the Appropriate Authority shall have the power to –
 - (a) Impose any of the penalties provided under this Act;
 - (b) Reject the application.

Penalty

8. (1) The Appropriate Authority at the time of deciding any complaint or appeal is of the opinion that the Competent Authority or Designated Officer or subordinate public servant, as the case may be, who has, without any reasonable cause, failed to deliver the service to an

applicant within the stipulated time under Section 5 or causes in issue of deemed approval under Section 6, it shall impose a penalty of two hundred and fifty rupees each day till service is delivered, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that no penalty shall be imposed on the Competent Authority or Designated Officer or subordinate public servant, as the case may be, before giving him a reasonable opportunity of being heard by way of a written notice:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Competent Authority or Designated Officer or subordinate public servant, as the case may be.

- (2) The Competent Authority or Designated Officer or subordinate public servant, as the case may be, who is aggrieved by the order passed by the Appropriate Authority in accordance with section 8(1) shall be entitled to file an appeal to the Appellate Authority against such order within a period not exceeding thirty days of the receipt of the impugned order and the order of the Appellate Authority shall be the final and binding.
- (3) For the purpose of this Act, the appeal against the order of the Appropriate Authority shall lie with the Appointing Authority of the appropriate cadre of the Competent Authority/Designated Officer/subordinate public servant.

Appointment of Appropriate Authority 9. (1) For the purpose of this Act, the Government shall appoint an Appropriate Authority to decide on the penalty against any Competent Authority or Designated Officer or subordinate public servant who fails to deliver the services within the stipulated time or causes in issue of deemed clearance, as the case may be.

(2) The Appropriate Authority shall comprise the following members:-

Chief Secretary - Chair person

Secretary to Government (Industries & Commerce) - Member

Secretary to Government of the Department concerned - Member

Nodal Agency. 10. The Directorate of Industries and Commerce shall act as the Nodal Agency to facilitate the delivery of clearances that are required for setting up of new enterprises or expansion or renewal of existing enterprises.

Functions of the Nodal Agency. 11. The Nodal Agency under the superintendence, direction and control of the Government, shall be responsible in discharging the following functions, namely:-

(a) act as a single point of contact for all enterprises that require clearances and as notified by the Government under section 3;

(b) assist the applicants in filing of applications online;

- (c) arrange for pre-scrutiny of applications by convening meetings with representatives of Competent Authorities and address queries of investors;
- (d) receive applications for clearances through single window portal;
- (e) review and monitor the processing of applications by the Competent Authorities;
- (f) compile the number of applications processed outside the stipulated time and deemed approvals generated every quarter and place before the Appropriate Authority;
- (g) act as Investor Facilitation Center for investment proposal, industrial facilitation, regulatory reforms and obtaining user feedback, queries and grievance handling.

Inspection.

12. (1) The Government may, by notification, specify the clearances for which inspections under the provisions of the applicable Acts, rules, orders or instructions shall be conducted by the Competent Authorities in accordance with such guidelines as may be prescribed.
- (2) The Government may, from time to time, by notification, specify the clearances for which exemption is granted from inspection and may also delegate the powers of inspection to any person or authority in respect of any specific clearance covered under this Act.

Developing culture to deliver services within fixed period.

13. (1) The defaults on the part of an officer in the time bound delivery of services as defined in this Act shall not be counted towards misconduct, as the purpose and object is to sensitize the public servant towards the citizen and to enhance and imbibe a culture to deliver time bound services to the citizens.
- (2) In case of any officer who is a habitual and willful defaulter, without any reasonable cause and persistently failed to receive an application or has failed to provide service within the stipulated time or intentionally denied the request for the service or delayed inordinately, the Secretary of the concerned Department shall be competent to take appropriate disciplinary action after recording a finding to this effect, but not before giving a show cause notice and opportunity of hearing to the defaulting officer;
- (3) To encourage and recognize superior performance of Designated Officer(s) having adhered to the stipulated timeline without default, a suitable entry shall be made in the Annual Performance Report by the Reporting Officer concerned.

Supplement.

14. The provisions of this Act shall be supplemented to the disciplinary and financial rules and such other service rules and regulations as applicable to the employees of the Government or Local Authority or Public Authority concerned, as the case may be, and not in derogation to such service rules and regulations governing the service condition and conduct of the Government Employees or the employees of the other Public Authority

concerned.

**Protection of
action taken in
good faith.**

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule made thereunder.

**Bar of
jurisdiction.**

16. No Civil Court shall have jurisdiction in respect of any matter which the Competent Authority or Appropriate Authority is empowered by under this Act to determine.

**Power to make
rules.**

17. (1) The Government may, after previous publication, by notification, in the official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made or notification issued under this Act, shall as soon as may be after it is made be laid before the Legislative Assembly, Puducherry, while it is in session for a total period of 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 session immediately following, the Legislative Assembly makes any modification in the rule or notification or decide that any rule or notification should not be made or issued, the rule or notification 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 or notification.

Power to amend

18. (1) The Government may by notification alter, add to or cancel

the Schedule

the Schedule.

- (2) All reference made in the Act to the Schedule shall be construed as relating to that Schedule as in the time being amended in exercise of the power conferred by this section.

Removal of difficulties.

19. (1) If any difficulty arises, in giving effect to the provisions of this Act, the Government may by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section 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, placed on the table of Legislative Assembly, Puducherry.

Power to Exempt.

20. The Government may, by notification, exempt any clearances from any of its provisions subject to such conditions as they deem fit and may cancel or modify any such notification in this Act.

Act to override other laws.

21. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.