

The Micro, Small and Medium Enterprises Development Act, 2006

This is an act for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

- A) **Udyog Aadhaar Memorandum(UAM) Registration** : In exercise of the powers conferred by sub-section (2) of the section 8 of the Micro, Small and Medium Enterprises Development Act,2006(27 of 2006) and in suppression of the notification number S.O.1643(E),dated the 29th September,2006,published in Part II, Section 3,Sub section(ii) of the Gazette of India, Extraordinary ,dated 30th September,2006,the Central Government, after obtaining the recommendations of the Advisory Committee in this behalf, specifies that every running Micro,Small and Medium enterprise shall file **Udyog Aadhaar Memorandum** online at <http://udyogaadhaar.gov.in> (notification no. S.O. 2576(E) dtd.18.09.2015)
- B) **Guidelines for Filing the Online Udyog Aadhaar Form :-**
Enterprise can file UAM online at <http://udyogaadhaar.gov.in> portal. The link is also given in the “myenterprisewb.in” portal.
- C) **Classification of enterprises**
An enterprise, engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, (IDR Act, 1951) is said to be :
(a) A micro enterprise, where the investment in Plant and Machinery does not exceed Rs.25 lakhs;
(b) A small enterprise, where the investment in Plant and Machinery is more than Rs.25 lakhs but does not exceed Rs.5 crore;
(c) A medium enterprise, where investment in Plant and Machinery is more than Rs.5 crore but does not exceed Rs.10 crores.
An enterprise, engaged in providing or rendering of services is said to be:
(a) A micro enterprise, where the investment in equipment does not exceed Rs.10 lakhs;
(b) A small enterprise, where the investment in equipment is more than Rs.10 lakhs but does not exceed Rs.2 crore;
(c) A medium enterprise, where the investment in equipment is more than Rs.2 crore but does not exceed Rs.5 crore
- D) **Payment to Micro and Small Enterprises**
The buyer shall make payment to the seller or supplier for any goods or any services on or before the date of agreed upon between him and the supplier in writing or where there is no agreement in this behalf, before the appointed day, the period of limitation for payment is no case shall exceed 45 days from the day of acceptance.

FAQ

1. What is MSMED Act 2006?

Ans.: This is an act for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto.

2. What are called Micro, Small and Medium Enterprises?

Ans.: An enterprise, engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, (IDR Act, 1951) is said to be : (a) a micro enterprise, where the investment in Plant and Machinery does not exceed Rs.25 lakhs; (b) a small enterprise, where the investment in Plant and Machinery is more than Rs.25 lakhs but does not exceed Rs.5 crore; (c) a medium enterprise, where investment in Plant and Machinery is more than Rs.5 crore but does not exceed Rs.10 crores. An enterprise, engaged in providing or rendering of services is said to be : (a) a micro enterprise, where the investment in equipment does not exceed Rs.10 lakhs; (b) a small enterprise, where the investment in equipment is more than Rs. 10 lakhs but does not exceed Rs.2 crore; (c) a medium enterprise, where the investment in equipment is more than Rs.2 crore but does not exceed Rs.5 crore.

3. What are important clauses in MSMED Act?

Ans.: Sec. 15 talks about Liability of the buyer to make payment to Micro and Small Enterprise for goods supplied or services rendered by them to buyer. As per this section payment has to be made within such period as agreed between buyer and seller which should not exceed 45 days in any case. Again as per Sec. 16 if a buyer fails to make payment as per Sec. 15 he is liable to pay interest which will be computed at monthly rate and compounded int. at the rates which will be three times of bank rate notified by RBI. Further as per Sec. 23, interest paid or payable as per Sec. 16 will be disallowed as deduction while computing income under Income Tax Act, 1961. Sec. 23 is an overriding section.

4. How is the investment in Plant and Machinery computed? Is there any exclusion in computing the investment in Plant & Machinery?

Ans.: The investment in Plant and Machinery should be the original value irrespective of whether the Plant and Machinery are new or second hand. In respect of imported machinery, the following is to be included in calculating the value: a. import duty (excluding miscellaneous expenses such as transportation from the port to the site of the factory, demurrage paid at the port); b. shipping charges; c. customs clearance charges and d. sales tax or value added tax. The following are excluded while calculating the investment in Plant and Machinery: (i) equipments such as tools, jigs, dies, moulds and spare parts for maintenance and the cost of consumable stores; (ii) installation expenditure for Plant and Machinery; (iii) research and development equipment and pollution control equipment; (iv) power generation set and extra transformer installed by the enterprise as per the regulations of the State Electricity Board; (v) bank charges and service charges paid to the National Small Industries Corporation or the State Small Industries Corporation. (vi) Procurement or installation of cables, wiring, bus bars,

electrical control panels (not mounted on individual machines), oil circuit breakers or miniature circuit breakers which are necessarily to be used for providing electrical power to the Plant and Machinery or for safety measures. (vii) gas producer plants; (viii) transportation charges (excluding sales-tax or value added tax and excise duty) for indigenous machinery from the place of their manufacture to the site of the enterprise. (ix) charges paid for technical know-how for erection of Plant and Machinery. (x) such storage tanks which store raw materials and finished products only and are not linked with the manufacturing process, and (xi) fire fighting equipment.

5. If the buyer fails to pay the amount to the supplier, what is the buyer's liability?

Ans.: If the buyer fails to make payment of the amount to the supplier as required under section 15, then the buyer is liable to pay compound interest with monthly rests on the amount at three times of the bank rate notified by the RBI.

6. What is the recourse to the supplier if buyer does not pay interest?

Ans.: A reference may be made to the Micro and Small Enterprises Facilitation Council. The Council shall first try for conciliation. If conciliation is not successful then the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 shall apply. If any party does not accept the decree or award of the Council or of the arbitrator, no court shall entertain the application, unless 75% of the amount in terms of decree or award is deposited by the appellant.

7. Who is a buyer?

Ans.: 'Buyer' means whoever buys any goods or receives any services from a supplier.

8. Who is a supplier?

Ans.: Sub-section (n) of section 2 of the Act, defines a supplier. As per the definition, a supplier means a micro or small enterprise, which has filed a memorandum with the District Industries Centre. Further, "supplier" also includes: (i) the National Small Industries Corporation Ltd.; (ii) a company under the Small Industries Development Corporation of a state or a Union territory. (iii) any company, co-operative society, society, trust or body, engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises.

Are any disclosures required to be made in the audited financial statements, of the "buyer"?

Ans.: As per section 22 of the MSMED ACT, 2006, a buyer in its audited annual statements is required to furnish the following additional information : (a) the principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier as at the end of accounting year; (b) the amount of interest paid by the buyer in terms of section 16 along with the amount of the payment made to the supplier beyond the appointed day during each accounting year; (c) the amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Act.

(d) The amount of interest accrued and remaining unpaid at the end of each accounting year; and (e) The amount of further interest due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure under section 23.

10. Are there any fines / penalties if any of the provisions contained in sub-section (1) of section 8 or sub-section (2) of section 26 or section 22 are not complied with?

Ans.: Section 27, of the MSMED Act, 2006 deals with fines/ penalties: Where a person intentionally contravenes or attempts to contravene or abets the contravention of the following: a. where a person fails, to file memorandum, as required under sub-section (1) of section 8 of the MSMED Act, 2006. b. fails to furnish such information as called by an officer appointed under section 26(1) of the MSMED Act, 2006. In case of first conviction, the fine may extend up to Rs.1,000 and in case of second and subsequent conviction, fine shall not be less than Rs.1,000 and can extend up to Rs.10,000. c. where a buyer contravenes the provisions of section 22 of the Act, 2006 i.e. fails to furnish additional information in his annual statement of accounts, sub section(2) of section 27 states that the fine shall not be less than Rs.10,000/-

11. What is Udyog Aadhar Memorandum (UAM)?

Ans.: UAM is a one-page registration form in a self- declaration format which can be filled online by a Micro, Small or Medium Enterprise (MSME). The MSME will be issued online, a unique identifier i.e. 12-digit Udyog Aadhaar Number which is called the Udyog Aadhaar Memorandum (UAM) Number. It replaces the earlier Entrepreneur Memorandum (EM-I / EM-II) which had a lengthy procedure.

12. At what stage of my business do I apply for UAM?

Ans.: UAM is applicable for Udyog Aadhaar (UA) is for running units only. There is no need to apply for upcoming units.

13. Why is an Aadhaar-linked mobile number required while filing for UAM?

Ans.: OTP will come to the Mobile (linked with Aadhaar) at the time of UAM registration.

14. What is the advantage of UAM over EM-I/EM-II?

Ans.: The introduction of UAM as an online user friendly form has reduced the time taken and efforts made in the entire process of applying and verification of the documents for MSME registration.

15. What is the need to have a UAM?

Ans.: UAM will help the Micro. Small or Medium Enterprise (MSME) to self-certify its existence, provide bank account details, provide promoter/owner's Aadhaar details and other minimum basic information required for availing benefits.

16. How do I apply for a UAM?

Ans.: You can apply for Udyog Aadhaar Memorandum (UAM) online by visiting the portal <http://udyogaadhaar.gov.in>

17. What is the process / guideline of applying for UAM?

Ans.: To understand a step-by-step process of applying for UAM, you can visit: https://udyogaadhaar.gov.in/UA/UAM_Registration.aspx where the Guidelines for Filing the Online Udyog Aadhaar Form is mentioned.

18. Where can I view / download the UAM form?

Ans.: You can view or download the UAM form , which is in pdf format from <https://udyogaadhaar.gov.in/Web/doc/English.pdf>(English form) and <https://udyogaadhaar.gov.in/Web/doc/Hindi.pdf> (Hindi form)

19. What are the benefits of UAM registration?

Ans.: A UAM registered MSME will be eligible for all government scheme benefits like guarantor-free loan, easy loan, loan with low rate of interest, etc. The MSME registered enterprises get the financial support from the Government to participate in foreign expo. The enterprise is also entitled for the Government subsidies. Marketing assistance will be provided.

20. What are the other advantages of filing UAM?

Ans.: By filing for UAM, every enterprise is protected by MSMED Act. 2006 to ensure timely payment in respect of supply of goods or rendering of services to any buyer.

21. What protection does an enterprise get from the MSMED Act 2006?

Ans.: As per the MSMED Act, if the buyer has purchased goods or availed services from an MSME which has filed UAM, then the buyer shall make payment on or before the date agreed upon between him and the supplier in writing. The Act further stipulates that if the period between the buyer and supplier is agreed in writing, such period shall not exceed 45 days from the day of delivery of goods or rendering of services.

22. What is the time taken to register an MSME?

Ans.: The time taken to issue a UAM is instantaneous if all the mandatory fields in the form are filled correctly. This is because it is an online process based on self-certification.

23. Has EM-I/II been replaced by UAM?

Ans.: Yes. After the notification dated 18th September 2015, filing of Entrepreneur Memorandum (EM-I/EM-II) by States/UTs has been discontinued and filing of Udyog Aadhar Memorandum (UAM) is now to be done in the portal <http://udyogaadhaar.gov.in>

24. What is the date for adopting the UAM and stopping EM-I & EM-II?

Ans.: Filing of UAM has been notified from 18th Sept 2015. Cases of EM-I/II filed and under process till 18th Sept 2015 may be accepted.

25. Will a multiple system of registration of EM-I and EM-II along with UAM exist after introduction of UAM?

Ans.: After 18th Sept 2015, there is only one system i.e. UAM for the registration of new MSME units.

26. How to select NIC Code of the Activity performed by the enterprise?

Ans.: The NIC code can be selected once the aadhaar number is validated and major activity (manufacturing or service) is selected. In order to simplify the selection of appropriate NIC code, a

three-stage drop-down list is available to the users. Please visit :

https://udyogaadhaar.gov.in/UA/Document/nic_2008_17apr09.pdf

27. Is there a provision to verify the UAM credentials by the procurement agencies including government departments and PSUs?

Ans.: NIC has been advised to suitably provide this provision in a way that several e-procurement portals in the country, created by the government or private but being used by the government could benefit from the UAM portal in so far as online verification of a MSME unit is concerned.

28. Is there a difference in the information sought under EM-I/II and the new UAM?

Ans.: In order to promote ease of doing business for MSMEs, it has been decided to seek lesser information than EM-I/II in the UAM.

29. How to submit the supporting documents while filing UAM online?

Ans.: The information sought is on self-certification basis and no supporting documents are required at the time of online filing of UAM.

30. Whether the new system of UAM encapsulates the change in the line of production?

Ans.: Yes, since the new system constitutes self declaration format, the change in the line of productions accordingly may be incorporated.

31. What would happen to those enterprises which do not have Aadhaar Number?

Ans.: At present Aadhaar Number is mandatory for registration under UAM. However, the DIC will find a way out for covering those cases where Aadhaar Number is not available.

32. How can I update my Udyog Aadhaar?

Ans.: To update your Udyog Aadhaar you can visit:

https://udyogaadhaar.gov.in/UA/UA_EntrepreneurLogin.aspx

33. EM-I filed by a prospective enterprise entitled it for certain benefits / concessions. How is this being handled in UAM?

Ans.: Legally, the EM-I and EM-II does not exist after 18th Sept 2015. States/UTs will provide all benefits/concessions to MSMEs based on UAM only.

34. Is there a provision for editing of information in UAM data of an enterprise by GM (DIC)?

Ans.: No. However, GM DICs , on the UAM portal, shall be able to enter their remarks on the respective information provided by the entrepreneurs while filing the UAM online.

35. Who has access to the data from the UAM portal?

Ans.: The UAM Portal shall have suitable provisions to allow officials of the State Governments including GM DICs to have password protected access to data of their jurisdiction.

36. Whether the new system of registration provides NIC Code in Hindi and English?

Ans.: Presently the NIC Codes are only available in English. However, the same may be made available in Hindi in due course.

37. What is the monitoring mechanism available to Director (Industries) and GM (DICs) for new registration under UAM?

Ans.: Since the UAM is being filing on self certification basis and the Udyog Aadhaar Number is generated instantly, there cannot be any monitoring of the registration process. However, the enterprises filing the UAM online are liable to provide documentary proof of information provided in the UAM, wherever necessary, to the Central Government, State Government or such person as may be authorized.

38. Why have power load details not been asked in UAM?

Ans.: Power load indicates the requirement of energy to the MSME unit. This has no relevance to the activity of the enterprise and the subject matter is dealt by the State/UT Governments.

39. Will there be any updating of data by the entrepreneurs on the UAM portal?

Ans.: The legacy of SSI registration and EM-I and EM-II does not mandate for updation and the same used to be filed as a one-time exercise on the part of MSME units. The same is proposed to continue.

40. How can closing of the business unit be recorded by the entrepreneur in the UAM?

Ans: It may not be made obligatory for the closing unit to inform about it to the State/UT concerned or the UAM portal.

41. Is it mandatory to have Aadhaar Number for an Entrepreneur to file Udyog Aadhaar Memorandum?

Ans.: The Udyog Aadhaar Registration can be done online by individuals themselves in case they have an Aadhaar Number. However, in all exceptional cases, including those of not having Aadhaar number, can still file Udyog Aadhaar Memorandum ,in offline mode(i.e. on paper form), with the General Manager(GM) of the concerned District Industries Centre(DIC). The same has also been notified in the gazette dated 18-09-15. The persons having Aadhaar numbers, by virtue of having provided the demographic as well as biometric details to the state, once and for all, indeed enjoy a greater ease of registration at the UAM portal.

42. What is the Government's Vision for Udyog Aadhaar?

Ans.: The Ministry of MSME had in September 2015 notified Udyog Aadhaar, where the objective would be to simplifying procedures to start a business with a single-page registration form. A large number of enterprises in India were not registered due to the cumbersome paperwork involved in the process and, therefore, could not tap the government schemes for them. The concept of Udyog Aadhaar and ease of registration ensures wider coverage of MSMEs to avail the benefits under various Schemes of Central/ State governments.

43. What do entrepreneurs need to do if they want Udyog Aadhaar but do not have Aadhaar Number?

Ans.: An applicant or the authorised signatory who is not yet enrolled for Aadhaar shall have to apply for Aadhaar enrolment and in case he or she is entitled to obtain Aadhaar as per section 3 of the

Aadhaar Act such individual may visit any Aadhaar enrolment centre to get enrolled for Aadhaar. Provided that till the time Aadhaar is assigned to the individual, UAM registration shall be filed by the concerned DIC or MSME-DI on behalf of such enterprise, subject to the production of the following documents as alternative and viable means of identification. (a) (i) If he has enrolled, his Aadhaar Enrolment ID slip; or (ii) A copy of his request made for Aadhaar enrolment, (b) Any of the following documents, namely:- Bank photo passbook; or voter ID Card; or passport; or driving license; or PAN card; or employee photo identity card issued by the Government.

44. **Where do I need to complain if there is any issue to resolve?**

Ans.: For nay complaint, an entrepreneur can visit:

https://udyogaadhaar.gov.in/UA/Complaint_regtister.aspx