

Kerala Government Land Allotment and Assignment for Industrial Purposes Rules,2023

(G.O.(P) No.309/2023/RD dated 11.12.2023 – SRO No. 1381/2023)

GUIDELINES & FAQs

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Guidelines & FAQs for the implementation of ‘Kerala Government Land Allotment and Assignment for Industrial Purposes Rules, 2023’ in Industrial Estate under the Directorate of Industries & Commerce,

(vide G.O.(P) No.309/2023/RD dated 11.12.2023 – SRO No. 1381/2023)

Introduction:

The land allotment and other matters related to land was done on the basis of G. O. (Ms) No. 8/2020/ID dated 8th January, 2020. As per this rule, the applications of patta were to be forwarded to District Collector who has to issue patta. But many District Collectors hesitated to issue patta, since the above GO was issued without the concurrence of Revenue Department. So Government decided that the Revenue Department shall issue the rule regarding the allotment and related matters of industrial estates. In addition, there were grievances regarding the land allotted on lease basis, which also led to many litigations. To address all such issues Government decided to introduce a new land rule. Thus G.O.(P) No.309/2023/RD dated 11.12.2023 – SRO No. 1381/2023 came into force. A meeting with General Managers were held to discuss the new rule. The General Managers sought clarifications regarding the various aspects of implementation of the rule. The clarifications for those points and checklists with respect to transfer, constitution change, activity change are detailed below.

1) Lease to hire purchase/outright purchase

As per the new land rule the land already allotted on lease basis vide G. O. (Ms) No. 17/2016/ID 13.1.2016 shall stand migrated to this hire purchase rule with effect from the date of this order. This is dealt in rule No37(9)

Rule 37(9) is stated as below:

The land already allotted on lease basis vide G.O.(Ms) No.17/2016/ID dated 2016 shall stand migrated to this hire purchase rule with effect from the date of this order. In such cases the allottees shall be bound to execute an agreement under Hire Purchase/Outright Purchase basis as the case maybe. The lease premium already remitted shall be adjusted against the Hire Purchase/Outright purchase value of the

land. The balance if any shall be retained as advance to meet the enhancements in the land.

Clarification

- i) Date of allotment in agreement: In the agreement the date on which land was allotted originally on lease can be shown as date of allotment.
- ii) Land value: Land value will be the land value at the time of entering into the agreement as per the present 2023 rule

2) Land value difference

In the new rule the difference in land value is mentioned in rule 18 and rule 19.

Whether difference in land value, if any, as per Rule 12,13,14 be remitted for transfer, constitution change, mortgage, assignment, activity change?

Clarification

The demand and collection of difference in land value for processing the application for transfer, constitution change, mortgage, assignment, activity change is done away with the introduction of G.O.(P) No.309/2023/RD dated 11.12.2023 – SRO No. 1381/2023. Land value is related to Rule 12,13,14. This is regard to the cost of acquisition of land and the initial establishment of the industrial estate. If the party from whom the land was acquired, approaches a court of law and demand for higher compensatory land value and the court orders it, then this has to be given to him by the Government. The Government has to make good of this amount from the allottee of the land itself. The existing industrial estate held under the directorate were acquired long back and the question of enhanced compensation is rarest of the rare case. This situation arise only for any land which will be acquired in future. So there will be no other payment of difference in land value on account of any application submitted by the allottee/assignee.

3) Lock in Period

As per the new rule lock-in period for transfer and constitution change is three years and lock in period for activity /product change is six months from the date of allotment. This is dealt in rule 33

Rule 33 is stated as below:

Lock-in Period. — 1. There will be a lock-in period imposed such that no transfer/change in constitution will be allowed for a period of three years from the date of allotment.

2. Lock-in period in respect of change of product/activity shall be six months only from the date of allotment. The lock-in period is applicable to subsequent changes also.

Clarification

The lock in period of three years is applicable to subsequent transfers and constitution changes.

The lock in period is applicable to R.33 (1) & (2). For subsequent changes the date of allotment, is the date of allotment of land, to the present allottee

4) Priority list for allotment

As per the new rule the Allotment Committee shall scrutinize the applications after interviewing the applicants and shall prepare the priority list as per the actual extent of land assessed by the Industrial Land Allotment Committee (DILAC or SILAC). This is mentioned in rule 7

Rule 7 is stated as below:

Matters to be considered by the allotting authority.—Application for the allotment of land shall be disposed of by the Allotment Committee (DILAC or SILAC) within a period of six months taking into consideration the viability of the project, the desirability and the suitability of the industry proposed in the area, investment and employment potential of the proposed unit, the capacity of the applicant to conduct the industry, the pollution sensitivity of the area and any other matter as maybe ordered from time to time, by the Director of Industries and Commerce. The need for the extent of land applied for, should be clearly stated. The Allotment Committee shall scrutinize the applications after interviewing the applicants and shall prepare the priority list as per the actual extent of land assessed by the Industrial Land Allotment Committee (DILAC or SILAC). An order rejecting the application must specify reasons for rejection. The

provisional allotment order of General Manager, District Industries Centre or the Director of Industries and Commerce shall be in Form No. II.

Clarification

The validity of the priority list shall be one year. If any vacancy of land arises within this period, allotment can be done from the priority list.

5) Approval of building plan

As per the new rule the allottee shall obtain the approval of the General Manager for the specifications, building and site plans, estimate, sectional drawing and details of the buildings to be erected or constructed on the allotted plot. This is dealt in rule 10.

Rule 10 is stated as below:

Approval of General Manager.—The allottee shall obtain the approval of the General Manager for the specifications, building and site plans, estimate, sectional drawing and details of the buildings to be erected or constructed on the allotted plot. No construction shall be carried out without such prior written approval.

Clarification

The building plan shall be approved based on KMBR

6) Competent Authority for approval of name change

As per the new rule the request of the allottee for change of name of the firm will be approved by the competent authority provided it does not fall under the category of change in constitution/activity/ product or transfer. This is dealt in rule 36(3).

Rule 36(3) is stated as below:

The request of the allottee for change of name of the firm will be approved by the competent authority provided it does not fall under the category of change in constitution/activity/ product or transfer.

Clarification

Land allotting authority itself is the Competent Authority.

7) Whether Sublease is possible

This is dealt in rule 37(2)

Rule 37(2) is stated as below:

The allottee shall not sublet or underlet or lease out or create any encumbrance of the land under any circumstance, other than in the case of space allotment in vertical development scheme/logistics projects. Subletting of industrial unit in Development Area/Development Plot/Functional Industrial Estates shall not be permitted under any circumstances and the Allotting Authority shall have the power to resume that land after following established procedures if found so.

Clarification

Sublease is allowed ONLY for the space allotment in vertical development/logistics projects. An allottee of industrial land in DA/DPs (original allottee) can make space allotment with the prior permission of allotting authority.

NOTE: Vertical development means providing space vertically over the existing building.

8) Matters to be considered by DILAC/SILAC

As per the new rule “Industrial Land Allotment Committee” means committee constituted for the purpose of considering land allotment applications for appraisal and finalizing priority list. This is dealt in rule 2(d) & (6)

Rule 2(d) is stated as below:

“Industrial Land Allotment Committee” means committee constituted for the purpose of considering land allotment applications for appraisal and finalizing priority list as per rule 6

Rule (6) is stated as below:

Allotting Authority.—The allotment of land for industrial purpose shall be done by the General Manager/the Director of Industries & Commerce. The General Manager,

District Industries Centre shall be the allotting authority for plots measuring up to 4.04 Hectares (10 acres) of land and the Director of Industries & Commerce, for plots above 4.04 Hectares (10 acres), based on the recommendations of the respective land allotment committees at District and State levels. The order of priority is to be observed in areas where more than one application is received in respect of one plot.

Clarification

Allotment, Transfer, Constitution change, Activity change, Mortgage and any other matters related to land in Industrial Estates shall be brought to the consideration of DILAC/SILAC

9) Role of Site Selection Committee

Clarification

DILAC, SILAC and Site Selection Committee have been constituted as per GO (Rt) No 732/2017 dated 24.5.17 which is still prevailing. The role of Site Selection Committee is detailed in the above mentioned GO.

10) Tax collection in DA/DPs

As per the new rule the allottee shall pay land tax, building tax and all other kinds of taxes, cess etc. This is dealt in rule 37(3)

Rule 37(3) is stated as below:

The allottee shall pay land tax, building tax and all other kinds of taxes, cess etc. if any, payable to the local authority and other Governmental Agencies from time to time, in respect of the land and furnish a copy of the receipt to the allotting authority for record purpose.

Clarification

As per industrial estate notification, the Single Window Clearance Board constituted for each industrial estate is also an authority. At present they are not insisting on any tax. LSGIs have other view in this matter. This issue is being dealt in Government. Decision is pending and will be dealt later separately

FAQs

- 1) Whether DILAC fee shall be collected?**

Ans: Yes. DILAC fee is insisted in GO (Rt) No 732/2017 dated 24.5.17 which is still prevailing. So fee should be collected

- 2) Whether cost incurred toward development shall be collected from existing allottees?**

Ans: No. Applicable only to fresh allotment, since the cost of infrastructure development gets added to land value .

- 3) Should 5% of land to be allotted for service sector ?**

Ans: Yes. This is insisted in GO (Rt) No 224 /2014/ID dated 19.2.2014 which is still prevailing and is to be followed

- 4) Whether processing fee to be collected from the auction purchaser ?**

Ans: Yes. The auction purchaser is a transferee. Rule 2023 is binding on him/her. So processing fee with respect to transfer shall be collected.

- 5) (a) If an order to pay an amount exists (based on previous rule) but did not pay, then on the basis of which rule, the amount is to be paid?**

Ans: The amount is to be paid based on the present 2023 rule

(b) Decision to be taken in the case of an unit which paid more amount as processing fee based on previous rule and order of General Manager and not executed the agreement

Ans: The agreement should be executed on the basis of 2023 rule but the remitted amount cannot be refunded.

(c) Decision to be taken in the case of an unit which paid lesser amount as processing fee based on previous rule and order of General Manager and not executed the agreement

Ans: The agreement should be executed on the basis of 2023 rule by collecting the balance amount .

- 6) Whether processing fee should be demanded for regularisation of old transfer, constitution, activity change?**

Ans: Yes. For regularisation of transfer, constitution, activity change, processing fee should be remitted.

- 7) If transfer, constitution, activity change is requested through a single application then whether the processing fee should be collected separately for each change

Ans: Yes. Processing fee should be collected for each change (ie transfer, constitution, activity) separately

- 8) If regularisation of more than one constitution change of a unit for previous years is requested then whether the processing fee should be collected separately for each change

Ans: The processing fee shall be collected for the regularisation of present constitution change

- 9) Shall this rule be applicable to allotment, resumption of SC/ST shed in DA/DPs.

Ans: This rule is exclusively for **land allotment** and its related matters in the industrial estates

- 10) Whether more than one activity can be permitted in an allotted plot

Ans: The decision can be taken by the allotting authority based on the permission of allied departments like PCB/Factories & Boilers etc; availability of space; nature of activity; financial credentials etc.

- 11) Whether the Form VIII is applicable for the transfer of unassigned land

Ans: No.

- 12) Whether the Form VIIIB is common for issuing proceedings of assigned and unassigned land.

Ans: Yes

- 13) Whether processing fees should be collected for name change.

Ans: Refer rule 36(3). If the name change does not fall under the category of change in constitution /activity/product or transfer, processing fee need not be collected.

Clerical Mistakes in the Rule

1) Introductory Paragraph - page 2, second line

Government Land (Allotment and Assignment for Industrial Purpose) Rules
2023

Shall be read as

Government Land (Allotment and Assignment for Industrial Purpose) Rules
2020

2) Rule 23(iii)

A penalty of Rs 250/- per Are per day will be charged from the **transferor** for each day of delay after one year till the date of resumption, if the land could not be resumed for any reason whatsoever. And if the **transferor** does not pay the penalty, the revenue recovery formalities as per the Kerala Revenue Recovery Act, 1968 shall be initiated.

Shall be read as

A penalty of Rs 250/- per Are per day will be charged from the **transferee** for each day of delay after one year till the date of resumption, if the land could not be resumed for any reason whatsoever. And if the **transferee** does not pay the penalty, the revenue recovery formalities as per the Kerala Revenue Recovery Act, 1968 shall be initiated.

3) Rule 36(2)

An allottee shall be allowed to switch over to new product/activity only after six months from the **date of commencement of allotment** and in the following circumstances only

Shall be read as

An allottee shall be allowed to switch over to new product/activity only after six months from the **date of allotment** and in the following circumstances only

4) Form VI A (Rule 15)

In Form VIA signing authority is shown as **General Manager** which **shall be read as District Collector**

5) Rule 24

Power of General Manager in resumption of assigned land.—The General Manager shall have powers to resume the assigned land in the circumstances outlined in **rule 24** after giving the assignee a notice to show cause within 30 days and after hearing her/him

Shall be read as

Power of General Manager in resumption of assigned land.—The General Manager shall have powers to resume the assigned land in the circumstances outlined in **rule 23** after giving the assignee a notice to show cause within 30 days and after hearing her/him

6) Form VIII B (page No.52)

In the above circumstances and in exercise of powers conferred on me by **Rules 21** of Government Land (Allotment and Assignment for Industrial Purposes) Rules, 2023, sanction is accorded for the transfer of

Shall be read as

In the above circumstances and in exercise of powers conferred on me by **Rules 34** of Government Land (Allotment and Assignment for Industrial Purposes) Rules, 2023, sanction is accorded for the transfer of

7) Definition2(d)

"Industrial Land Allotment Committee" means committee constituted for the purpose of considering land allotment applications for appraisal and finalizing priority list as per **rule 6**

Shall be read as

"Industrial Land Allotment Committee" means committee constituted for the purpose of considering land allotment applications for appraisal and finalizing priority list as per **rule 7**.




Director of Industries & Commerce

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DOCUMENTS REQUIRED WITH RESPECT TO APPLICATIONS IN INDUSTRIAL ESTATE UNDER THE DIRECTORATE OF INDUSTRIES & COMMERCE

(G.O.(P) No.309/2023/RD DATED 11.12.2023 – SRO No. 1381/2023)

For New Land allotment	
1	Application in prescribed form (online)
2	Resolution if applicable.
3	GST Registration Certificate (if available)
4	PAN Card
5	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
6	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
7	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
8	Proof of remittance of EMD and DILAC fee
9	Project Report
10	Site plan showing necessity of requirement of land
11	Credentials of applicants with Qualification and Experience
12	Proof of Source of income for setting/ running of industry
For Mortgage permission	
1	Application in White Paper
2	Udhyam Registration Certificate
3	GST Registration Certificate
4	PAN Card
5	Form X Undertaking in stamp paper worth 200/- from the financial institution
6	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
7	Partnership Deed in case of partnership with list of partners with details of stake of each partners
8	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at date of allotment / constitution change/transfer as approved by GM, DIC. (in the case of Company)
9	Resolution from the Unit, if applicable.
10	Land Allotment Order/ Constitution/ Activity/ Name change orders and agreements
11	No Objection Certificate (NOC) from the financial institution, if the industrial land has already been mortgaged for the loan
12	Proof of full remittance of land value
13	List of Shareholders at the time of application with % stake in the Pvt limited company/LLP/ partnership firm
14	Bank approved Project Report showing the necessity of the loan
15	Latest sales bill
16	Latest KSEB bill
17	Audited Balance Sheet

For Constitution Change	
1	Request of the allottee towards the change showing clearly the reason for the change
2	Resolution from the Unit for constitution change , if applicable.
3	Udhyam Registration Certificate
4	GST Registration Certificate
5	PAN Card
6	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
7	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
8	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
9	Proof of remittance of processing fee
10	Land Allotment Order/ Constitution/ Activity/ Name change orders and agreements
11	No Objection Certificate (NOC) from the financial institution if the industrial land has already taken loan
12	Proof of full remittance of land value
13	No due certificate from KSEB
14	List of Shareholders at the time of application with % stake (proposed after change) in the Pvt limited company/LLP/ partnership firm
15	Latest sales bill
16	Latest KSEB bill
17	Audited Balance Sheet and Trade profit/loss statement of last financial year
18	Affidavit (in stamp paper worth Rs.200/-) from the existing allottee stating that they will clear all liabilities in connection with the land/unit set up in DA/DP
19	Credentials of the Incoming partner(s)/ share holder(s)
20	Undertaking from all incoming partner(s) / share holder(s) that they shall adhere to the land rules 2023 including the remittance of any fees/ charges mentioned in the rules
21	Project Report (If there is any activity Change)

For Transfer	
1	Request of the allottee towards the change showing clearly the reason for the change and request of the transferee.
2	Resolution from the Unit for transfer , if applicable.
3	Udhyam Registration Certificate
4	GST Registration Certificate
5	PAN Card
6	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
7	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
8	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
9	Proof of remittance of processing fee
10	Land Allotment Order/ Constitution/ Activity/ Name change orders and agreement
11	No Objection Certificate (NOC) from the financial institution if the industrial land has already taken loan
12	Proof of full remittance of land value
13	No due certificate from KSEB
14	Latest sales bill
15	Latest KSEB bill
16	Audited Balance Sheet and Trade profit/loss statement of last financial year
17	MOU between transferor and transferee (in case transferee is new legal entity).
18	Documents related to the constitution of proposed legal entity after transfer
19	List of Shareholders at the time of application with % stake (proposed after change) in the Pvt limited company/LLP/ partnership firm
20	Affidavit (in stamp paper worth Rs.200/-) from the existing allottee stating that they will clear all liabilities in connection with the land/unit set up in DA/DP
21	Credentials of the Incoming partner(s)/ share holder(s)
22	Undertaking (in stamp paper worth Rs.200/-) from all incoming partner(s) / share holder(s) that they shall adhere to the Land Rules 2023 including the remittance of any fees/ charges mentioned in the rules
23	Project Report (If there any activity Change)
24	Proof of Source of income for transferee for setting/ running of industry

For Assignment	
1	Application in form no. V
2	Resolution from the Unit for submitting application for assignment , if applicable.
3	Udhyam Registration Certificate
4	GST Registration Certificate
5	PAN Card
6	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
7	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
8	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
9	Land Allotment Order/ Constitution/ Activity/ Name change and agreement orders
10	No Objection Certificate (NOC) from the financial institution if the industrial land has already taken loan
11	Proof of full remittance of land value
12	Latest sales bill
13	Latest KSEB bill
14	Audited Balance Sheet and Trade profit/loss statement of last financial year
15	Site plan showing the utilisation of Land
16	List of Shareholders at the time of application with % stake (proposed after change) in the Pvt limited company/LLP/ partnership firm
17	Affidavit (in stamp paper worth Rs.200/-) stating the allottee/ assignee shall pay all further amounts demanding by allotting authority on account of infrastructure development cost and maintenance cost and also abide the land rules persisting time to time.
18	Report of functioning of the unit from the date of allotment / constitution change/transfer as approved by GM, DIC

For transfer of Assigned land	
1	Application in form no. VIII
2	Undertaking in form VIII A in the stamp paper
3	Resolution from the Unit for submitting application for heritable or alienation assigned land, if applicable.
4	Udhyam Registration Certificate
5	GST Registration Certificate
6	PAN Card
7	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
8	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
9	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
10	Land Allotment Order/ Constitution/ Activity/ Name change and agreement orders
11	Copy of assignment Order and Patta
12	Site plan showing the utilisation of Land
13	No Objection Certificate (NOC) from the financial institution if the industrial land has already taken loan
14	Proof of full remittance of land value
15	No due certificate from KSEB
16	Latest sales bill
17	Latest KSEB bill
18	Audited Balance Sheet and Trade profit/loss statement of last financial year
19	MOU between assignor and assignee (in case assignee is new legal entity)
20	Documents related to the constitution of proposed legal entity after transfer of assignment
21	List of Shareholders at the time of application with % stake (proposed after change) in the Pvt limited company/LLP/ partnership firm
22	Affidavit from the existing assignor stating the they will clear all liabilities in connection with the land/unit set up in DA/DP
23	Credentials of the Assignees
24	Undertaking (in stamp paper worth Rs.200/-) stating the allottee/ assignee shall pay all further amounts demanding by allotting authority on account of infrastructure development cost and maintenance cost and also abide the land rules persisting time to time.
25	Project Report (If there is any activity change)
26	Proof of source of income for Assignee for setting/ running of industry
27	For Heritable transfer - Copy of Death Certificate, Legal Heirship certificate
28	Joint Notary attested authorization of all Legal heirs for transferring whole(part) right of the property to one or many among them

For Activity Change	
1	Request of the allottee towards the change showing clearly the reason for the activity change
2	Resolution from the Unit for activity change , if applicable.
3	Udhyam Registration Certificate
4	GST Registration Certificate
5	PAN Card
6	ID and Address proof of Proprietor / Manager Director / Managing Partner / Authorized representative
7	Partnership Deed in case of partnership with list of partners with details of stake of each partners at date of allotment / constitution change/transfer as approved by GM, DIC
8	ROC Registration Certificate, with article and memorandum of association with list of shareholders detailing their stake in % certified by Chartered Accountant and amount at time of allotment / constitution change/transfer as approved by GM, DIC (in the case of Company)
9	Proof of remittance of processing fee
10	Land Allotment Order/ Constitution/ Activity/ Name change orders and agreements
11	No Objection Certificate (NOC) from the financial institution if the industrial land has already taken loan
12	Proof of remittance of land value
13	No due certificate from KSEB
14	List of Shareholders at the time of application with % stake (proposed after change) in the Pvt limited company/LLP/ partnership firm
15	Latest sales bill
16	Latest KSEB bill
17	Audited Balance Sheet and Trade profit/loss statement of last financial year
18	Project Report
19	Building plan mentioning the installation of proposed machinery (with machinery name and power capacity)
20	Process flow chart

Documents required for the application for the approval of Building in Industrial Estates under the Directorate of Industries & Commerce)

1	Request in white paper/letter head
2	Land Sketch
3	Building Plan by Chartered Engineer (civil) or equivalent (min. scale 1:100), KMBR 2019 applicable. In the plan the location of proposed machinery (with the machinery name and power capacity in HP) to be mentioned
4	Site Plan (Min scale 1:200) with location sketch
5	Certificate of licensee issued by Department of Urban Affairs.



[Signature]
17/11/24
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