

Sustainable Industry Incentive Scheme 2023

Annexure H

SCHEME 11

**Incentive for Intellectual Property Creation
(Patent, Copyright, GI, Trademark etc.)**

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A. The Scheme

The Incentive Scheme for 'Intellectual Property Creation (Patent, Copyright, GI, Trademark etc.)' aims at incentivising the entities availing the certification/registration for patents, copyrights, GI, trademarks etc. both nationally and internationally. The incentive is being launched in a bid to boost the business ecosystem and generate employment in the State. The schemes aim to harness technology and business innovation in the State. The scheme will also emphasize the role of protection of Intellectual Property Rights to survive in a competitive business atmosphere. The long-term perspective of the scheme is to spread awareness and provide assistance regarding IPR protection. The scheme will also incentivize entrepreneurs for safeguarding their intellectual goods and services by granting them certain time-limited rights to control the use made of those. Under this Scheme, financial assistance shall be up to 50% of the cost incurred subject to a maximum of Rs.30.00 lakhs of for various activities in connection with Intellectual Property creation viz., obtaining the Patent, Industry Design Patent, Trademark, Copy Right, Geographical Indications etc during the policy period for enterprises in any of the priority sectors as outlined in the Kerala Industrial Policy 2023

B. Definitions and explanations

The definitions for the terms mentioned in this guideline shall be used only for the purpose of this program and need not be made applicable elsewhere. The itemized definitions and explanations to this effect are as below:

- (i) Applicant: Enterprises of any constitution viz., Proprietary, Partnership, Limited Liability, Private Limited, Public Limited, Society, Trust, etc. having operational head office in Kerala. It shall be an independent legal entity

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- (ii) MSME units: All Micro Small & Medium Enterprises (MSME's), as defined in the MSMED Act 2006.
- (iii) Large Enterprise : Investment in plant & machinery above INR 50.00 Cr and not exceeding INR 300.00 Cr
- (iv) Mega Enterprise : : Investment in plant & machinery above INR 300.00 crore.
- (v) Negative List: List of Industries declared by State Government from time to time, which are not to be encouraged by giving any Government financial assistance, Government controlled industries, public sector undertakings;
- (vi) IPR: Intellectual Property Rights include Patent, Industry Design Patent, Trademark, Copy Right, Geographical Indications etc
- (vii) Agreement : An agreement refers to a legally binding document signed in stamp paper (Value as defined by the Sanctioning Authority) in the prescribed format between the Sanctioning Authority and applicant detailing the rights, obligations, and responsibilities of both the parties involved with regards to compliance to the rules and regulations, reporting requirements, repayment/recovery terms (if default), monitoring and evaluation processes, and any other specific conditions set forth by the Sanctioning Authority.

C. Eligibility of applicants

- i. All New/Existing MSME, Large, Mega Enterprises in any of the priority sectors as outlined in the Kerala Industrial Policy 2023 are eligible for assistance, provided expenses incurred on or after 01.04.2023 for Filing / granting IPR.
- ii. The applicant enterprise must have a valid Udyam/IEM Registration (if available), PAN Number and GST Number.
- iii. The industries included in the Negative list and notified as such from time to time shall not be eligible for assistance

D. Entitlement of a Successful Applicant

- Financial assistance under the scheme shall be up to 50% of the cost incurred for various activities in connection with Intellectual Property creation viz., obtaining the Patent, Industry Design Patent, Trademark, Copy Right, Geographical Indications etc. limited to Rs.30.00 lakhs per applicant.
- The assistance under the scheme will be released on reimbursement basis, after the expenditure has been incurred, on the following.
 - Search / Subscription Charges
 - Documentation
 - Copy of the Fee Receipt and invoice for the Attorney with inclusions & exclusions
 - Filing Charges

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- Document Publishing cost
 - Details of expenditure made towards obtaining the Patent, Industry Design Patent, Trademark, Copy Right and Geographical Indications as per statement of accounts duly certified by a Chartered Accountant
 - Copy of the filing / granting successful registration certificates
 - Copy of the successful registration certificates
 - Original proof of payment for the registration / filing
 - Detailed report on the registration / filing clearly specifying the purpose of the same
- In case, the unit has availed assistance for IPR from any schemes of the Government of Kerala/ GoI, and applied for assistance under this Scheme, the unit will be eligible only for availing the balance eligible subsidy amount, i.e, the difference between the total eligible assistance under this Scheme and the assistance already availed from any other schemes/sources.

E. Recommending Authority

The Recommending Authority for the applications shall be the concerned Assistant District Industries Officer. The duties of the Recommending Authority are to;

- i. Verify the documents submitted by the applicant via online
- ii. Conduct inspection if required,
- iii. Ascertain the eligibility, and recommend eligible amount to the Sanctioning authority.
- iv. Provide additional details if any called for by the Sanctioning Authority.
- v. Handhold smooth implementation of the scheme in close co-ordination with the applicant and Sanctioning Authority.

F. Sanctioning authority

The Sanctioning Authority for this scheme shall be the District Level 'Incentive Implementation Committee (IIC)' chaired by General Manager DIC. The constitution of the committee, the broad responsibilities of the Sanctioning Authority and the key responsibilities of the General Manager DIC for the successful conduct of the District Level IIC meetings are as outlined in the **General Scheme Guidelines** in **Annexure A**.

G. Application Form, Processing Fee and its mode of Application

Eligible applicant shall apply through online mode, with all relevant supporting

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documents and remit the applicable processing fee. The processing fee shall be 0.5% + GST of the claim submitted, subjected to minimum of Rs.1000/- +GST per application.

H. Mode of Release of Eligible Incentive

The following procedures will be adopted for the release of assistance sanctioned to a unit under this Scheme;

- i. Upon approval from the sanctioning authority, a sanction letter will be issued to the applicant.
- ii. The applicant is required to take prompt action within 30 days of receiving the sanction letter, by either signing an agreement with the Sanctioning Authority to facilitate the disbursement of assistance or filing an appeal in the prescribed format mentioned in the "Appeal" section, if they have any grievances.
- iii. In case of applicant filing an appeal, the disbursement of assistance will be kept on hold, until the disposal of the same.
- iv. If the applicant is unable to sign the agreement within the stipulated time due to genuine reasons, they should inform in writing, the reasons thereof to the sanctioning authority within this 30 days itself. The sanctioning authority will review the situation, and if deemed satisfactory, may grant an extension on a case-by-case basis.
- v. If the applicant fails to sign the agreement or file an appeal within the specified 30-day timeframe, the sanction will stand cancelled automatically, without prior notice.
- vi. In case the applicant wishes to avail the assistance, a fresh application has to be submitted remitting the applicable processing fee, again. In such cases, the application will be considered as a new application.
- vii. In the case of units, which has successfully executed the agreement, Sanctioning Authority shall forward such cases to MD- KSIDC.

If the documents submitted by the Sanctioning Authority are in order, MD-KSIDC will initiate further steps for the disbursement of the eligible amount directly to the bank account of the Beneficiary depending up on the availability of the fund.

I. Obligations of the applicant entrepreneurs and other General Guidelines

- The applicant shall provide all required details and declare such information as to be true.
- The applicant shall pay the requisite application fee through the online portal within one year of filing/granting IP. However, the sanctioning authority can

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condone delay up to further 6 months. The application submitted beyond the condonement period shall not be entertained.

- The applicant shall provide clarifications or further details sought by the recommending/sanctioning authority.
- The applicant, if so required by the recommending/sanctioning authority, shall allow inspection or verification of any details mentioned in the application including plant and machinery and all other assets, by the recommending/sanctioning authority or a third party authorised by the recommending/sanctioning authority.
- The applicant shall produce originals of any important documents if so required by the recommending/sanctioning authority for verification.
- The applicant shall execute requisite legal agreement online and if required on paper as and when the proposal is approved for financial assistance and furnish the signed hard copy subsequently via post or otherwise.
- The applicant shall operate the unit for a period of 5 years from the date of filing/granting of IPR.
- The applicant unit/assets claimed under the scheme shall not be transferred, sold, subleased, or sublet for a period of 5 years from the date of filing/granting of IPR without the consent of the sanctioning authority.
- The applicant who has availed assistance for the expenses incurred against granting of IP shall hold the IP for a minimum period of 5 years from the date of granting IPR.
- IP once granted from the respective authorities shall be accounted in books of accounts of the applicant unit as INTANGIBLE ASSETS separately.
- The applicant unit after availing the assistance shall furnish copies of balance sheets, valid license from local body, electricity bills, performance particulars in the prescribed proforma etc every year till the period stipulated in the agreement, before the 31st December of the next financial year, as proof of their functioning through the online portal.

J. Appeal & Dispute Resolution Mechanism

There is also provision for the applicant to appeal against the award of the sanctioning authority. The appellate authority for applicants in such circumstances

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will be MD-KSIDC for the District Level IIC. The Appeal Form affixing court fee stamp for Rs.10.00/- in Annexure is to be submitted within 30 days of issue of the order of the sanctioning authority.

The assistance proposed in this scheme is envisaged as a fiscal incentive for the investment made in Kerala and to attract more investors. Any dispute arises, which cannot be resolved at the level of Appellate Authority can only be questioned at courts having its jurisdiction at Thiruvananthapuram

K. Recoveries & Penalties

Any assistance provided under this scheme to a unit is subject to refund by the unit in full with an annual interest rate of 14% from the date of receipt upon the issuance of a registered demand notice to the unit by the Recommending/Sanctioning authority on the following grounds.

- a) In cases of obtaining assistance through misrepresentation, forgery, deception etc.
- b) Violating any of the conditions in the agreement executed
- c) Unauthorized subletting, subleasing, transfer or sale of the unit, change of activity without the consent of Sanctioning Authority

The applicant is required to operate the unit for the specified period mentioned in the guidelines/agreement. Failure to comply with this condition will result in the resumption of assistance on a prorata basis, considering the period of the company's operation, along with an annual interest rate of 14%.

In case of default, any amounts owed to the Government under the provisions stated above shall be recoverable as if they are arrears of land revenue. The recovery process will be carried out in accordance with the provisions of the Kerala Revenue Recovery Act, 1968, and other relevant laws applicable to the Government. However, the company will have to be provided with three opportunities to showcase in writing before such recovery measures are initiated.

L. Forms and Clarifications.

MD-KSIDC shall have the full authority to prepare the application forms, form of agreement and any other formats required for the proper implementation of the Scheme and to issue clarifications sub-rules, modify the check-list etc, if required.
