

KARNATAKA EXTENDS EXEMPTION FROM STANDING ORDERS

1. INTRODUCTION

The Government of Karnataka issued a notification on May 25, 2019 (the “**Notification**”) to extend the exemption from the applicability of the Industrial Employment (Standing Orders) Act, 1946 (the “**Standing Orders Act**”) for another period of 5 (five) years for certain industries.

The 10 (ten) industries that are exempted from the applicability of the Standing Orders Act are IT; ITeS; Startups; Animation; Gaming; Computer Graphics; Telecom; BPO; KPO; and other knowledge based industries (the “**Exempted Industries**”). The exemption will be applicable to entities operating in these Exempted Industries from the date the notification is published in the official gazette.

2. BACKGROUND

The Standing Orders Act, as applicable in the State of Karnataka, applies to industrial establishments where 50 (fifty) or more workmen are employed at any point in time.

Employers in such industrial establishments are required to adopt draft standing orders which contain clauses relating to, among other details, work timing, leave and procedure for availing leave, termination of employment, notice period, acts or omissions which constitutes misconduct, rights and liabilities during temporary stoppages of work, and rights and liabilities during closure of establishments. Employers are required to have the standing orders certified by the Labour Department and workmen at such establishments are permitted to raise objections to specific clauses of the standing orders as part of the certification process.

The requirements under the Standing Orders Act were considered to be not only onerous but also antiquated in the context of how certain industries function in today’s world. It is in this context that the Government of Karnataka had exempted the applicability of the Standing Orders Act to certain industries. In fact, prior to the Notification, the Government of Karnataka had issued a nearly identical notification on January 25, 2014 to exempt the Exempted Industries for a period of 5 (five) years. This exemption expired in January 2019 and there was uncertainty regarding the applicability of Standing Orders Act. The objective of the current Notification is to extend the exemption for another 5 (five) years.

3. ANALYSIS

The Notification provides the following conditions, which will need to be satisfied by those entities operating in an Exempted Industry and in particular, such entities will need to:

- (a) Constitute an internal committee pursuant to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the rules framed thereunder;

- (b) Constitute a Grievance Redressal Committee (the “GRC”) consisting equal numbers of persons representing the employer and employees, to address complaints from any employee and empower the GRC to handle all types of employee complaints within a reasonable timeframe;
- (c) Inform the Jurisdictional Deputy Labour Commissioner and Commissioner of Labour in Karnataka about cases of disciplinary action, including suspension, discharge, termination, demotion, or dismissal of employees at the establishment; and
- (d) Promptly submit any information regarding service conditions of employees, which may be sought by the Jurisdictional Deputy Labour Commissioner and Commissioner of Labour in Karnataka.

The above-mentioned conditions are identical to the conditions that were prescribed in the earlier notification, which ceased to be applicable earlier this year. To the extent an entity in an Exempted Industry was making use of the exemption under the earlier notification, no additional processes will need to be put in place to make use of the exemption provided under the Notification.

4. **INDUSLAW VIEW**

In the period after the earlier exemption had expired, there was a fair amount of uncertainty about whether another exemption would be notified and a number of companies had taken steps to adopt standing orders.

In a state like Karnataka where a significant number of organizations were a part of an Exempted Industry, a continued exemption from standing orders was seen as a critical step to ensure that Karnataka remains a preferred destination for existing and prospective commercial activities.

At the same time, the Notification retains the four conditions which provides a certain degree of protection for employees, especially regarding service conditions and termination of employment. The Notification provides that the exemption will be applicable from the date it is notified in the official gazette and *not* from the date the previous exemption expires.

An interpretation could be taken that the Standing Orders Act was technically applicable to Exempted Industries during the few months between January 2019 and June 2019. Although relevant organizations would have had six months’ time to apply for certification of standing orders, the model standing orders would have been applicable in the interim period.

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