1. INTRODUCTION

In the wake of the COVID-19 crisis, on March 24, 2020, the Government of Karnataka issued a circular where it advised private establishments to not terminate the services of their employees, especially casual workers or employees working on a contractual basis, and to not reduce their salaries. In cases where employees were unable to discharge their duties on account of their workplace being made non-operational due to the pandemic, they were to be deemed to be on duty.

Thereafter, on March 29, 2020, the Ministry of Home Affairs (the “MHA”) released an order which stated that all employers, regardless of whether they were in industries or in the shops and commercial establishments, shall pay wages to their workers on the relevant due dates, without any deduction, for the period that their establishments were under closure during the nationwide lockdown declared by the Government of India.

On April 13, 2020, the Government of Karnataka’s Labour Department & Department of Information and Public Relations (the “Departments”) issued an order (“Order”) which outlined specific directions regarding the continuation of the payment of wages and the non-termination of the services of employees during the COVID-19 pandemic.

We highlight below the implications of this Order.

2. ANALYSIS

The Departments have issued the Order in exercise of their powers conferred under Government Order No. Km. E 178 T.S.R 2020 dated March 30, 2020 and under Section 69 of the Disaster Management Act, 2005. The Order has issued the following directions to all employers of public and private institutions with specific reference to their employees, in light of the COVID-19 crisis:

(i) Prohibition on the termination of services of employees, especially casual employees or contract employees, and on the deduction of their wages during the COVID-19 crisis;

(ii) Where an employee has applied for leave during these days, there shall not be any remarkable deduction in the wages, and he/she shall be treated as if he/she were on duty; and

(iii) Where an employee is unable to work in working units due to the COVID-19 outbreak, he/she shall be considered to have been discharging his/her duties.
The Order also clarifies that any violations of these directions will be punishable under the Disaster Management Act, 2005, which invites criminal prosecution for breaches.

3. **IMPLICATIONS**

This Order by the Government of Karnataka converts its previous advisories related to non-payment of wages or non-termination of employment during the COVID-19 crisis to compulsory measures which have to be adopted by employers, the violation of which may attract criminal prosecution. The Order will certainly bring clarity for employers who were unable to determine the sanctity and enforceability of the earlier advisories. Presently, the Government of Karnataka has limited the application of these provisions to the COVID-19 emergency, which may well extend further beyond the now-extended lockdown period.

The Order also states that employees who are unable to work in their working units due to the COVID-19 situation will be deemed to be on duty and be eligible for the payment of their wages. Inability to work due to the COVID-19 crisis will not render the employees at a disadvantage of losing their wages.

4. **INDUSLAW VIEW**

With this Order, the Government of Karnataka has brought about the required clarity with respect to the issues of mandatory payment of wages and non-termination of employment during the COVID-19 outbreak. Although the Order provides much-needed relief to the employees who are facing great uncertainties during this unprecedented situation, it also places a heavy burden on the private sector in light of the grim economic situation. This becomes additionally important given that the economic effects of the COVID-19 crisis could extend well beyond the current lockdown period.

**Authors:** Avik Biswas | Sowmya Kumar | Beenu Yadav

**Practice Areas:** Employment and Labour

**Date:** April 15, 2020

**DISCLAIMER**

This alert is for information purposes only. Nothing contained herein is, purports to be, or is intended as legal advice and you should seek legal advice before you act on any information or view expressed herein.

Although we have endeavored to accurately reflect the subject matter of this alert, we make no representation or warranty, express or implied, in any manner whatsoever in connection with the contents of this alert.

No recipient of this alert should construe this alert as an attempt to solicit business in any manner whatsoever.