

ERGO

Analysing developments impacting business

PUNJAB EXTENDS PERMISSION GRANTED TO SHOPS AND ESTABLISHMENTS ALLOWING THEM TO REMAIN OPEN ALL YEAR ROUND

19 July 2019

INTRODUCTION

On 16 July 2019, the Government of Punjab (Government) issued a notification (Notification) allowing all establishments to remain open for 24 hours on all 365 days of the year, up to 31 May 2020. The Notification exempts all establishments in Punjab from the provisions of Section 9 and Section 10(1) of the Punjab Shops and Commercial Establishments Act, 1958. The above-mentioned sections prescribe opening and closing hours of an establishment and declare Sunday as a closed day.

CONDITIONS TO AVAIL THE EXEMPTION

The exemptions under the Notification are subject to certain conditions, and failure to fulfil such conditions may lead to withdrawal of the exemptions. The conditions to avail the exemptions are as follows:

- Each employee must be given at least 1 holiday per week without any deductions from wages, in addition to the given national and festival holidays. A list of such holidays provided in a month must be notified in advance and displayed on the noticeboard of the establishment.
- An employee may be permitted to work for a maximum of 9 hours in a day, with a rest period of 1 hour after every 5 hours of continuous work. Further, an employee may only be permitted to work for 48 hours in a week, the spread over period being capped at 11 hours in a day.
- The employer must ensure adequate safety and security arrangements for employees and visitors at the establishments, beyond 10 pm. New staff must be appointed in view of the extended timings.
- Female employees must be provided special facilities such as separate lockers, security and rest rooms at the workplace. They may be allowed to work beyond 8 pm only after obtaining their prior written consent and ensuring their safe journey home. Further, an operative Internal Complaint Committee in compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is required to be constituted.
- Consent letters from all employees who are required to work beyond the working hours must be obtained, and saved on record. The wages, including

overtime wages, must directly be credited into the employees' savings bank accounts.

- The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 must be implemented in the establishments. Further, the employer is also required to ensure compliance with all other applicable labour laws and provide the facilities prescribed under such laws.

COMMENTS

Removal of restrictions on hours and days of operation had been a long-standing demand of traders and establishments, particularly those in the IT and ITeS sector. In response, the states of Maharashtra, Gujarat and Tamil Nadu have also previously granted exemptions similar to the present Notification. In fact, the present Notification bears close resemblance to the exemption notification by the Government of Tamil Nadu dated 28 May 2019. However, the exemption in Tamil Nadu is only applicable to establishments employing 10 or more persons, while no such threshold has been prescribed in the present Notification.

Therefore, this exemption granted by the Government of Punjab, is a welcome move as it is expected to bring in flexibility in the conduct of business of establishments and increase employment opportunities. However, the Notification falls short of prescribing the specific safety and security measures to be taken by the employer, leaving it to the discretion of the employer.

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