



## ERGO

*Analysing developments impacting business*

### TAMIL NADU PERMITS SHOPS AND ESTABLISHMENTS TO REMAIN OPEN 365 DAYS

25 June 2019

#### Introduction

On 5 June 2019, the Government of Tamil Nadu (Government) published a notification to bring into effect the relevant government order dated 28 May 2019 (Notification) granting exemption to all shops and establishments having ten (10) or more employees from complying with sections 7(1) and 13(1) (*opening and closing hours*) of the Tamil Nadu Shops and Establishments Act 1947 (Act). The Notification permits such shops and establishments to remain open for twenty-four (24) hours in a week, for all days in a year, for a period of three (3) years with effect from the date of publication of the Notification. The Government has been granting such exemptions for several years, the last of such notifications having been issued on 22 March 2017.

#### Conditions to be met under the Notification

The Notification mandates that shops and establishments must comply with certain conditions to enjoy the benefits of the exemption granted therein. Accordingly, shops and establishments must:

- provide a weekly holiday of at least one (1) day to each employee on rotation basis. Further, details of every employee to be provided in 'Form S' and be exhibited in a conspicuous place in the establishments;
- exhibit details of the employees who are on holiday / leave, on daily basis, in a conspicuous place in the establishments;
- credit the wages including overtime wages of the employees to their savings bank account.
- not require or allow any employee to work for more than eight (8) hours in any day and forty-eight (48) hours in any week. Further, the period of work including overtime shall not exceed ten and a half (10 ½) hours in any day and fifty-seven (57) hours in a week. In case any of the employees are found working on any holiday or after normal duty hours without proper indent of overtime, penal action to be initiated against the employer / manager in accordance with the provisions of the Act;
- not require any women employees to work beyond 8.00 p.m. on any day in normal circumstances. However, women employees may be allowed to work

between 8:00 pm and 6:00 am after obtaining written consent and provision of adequate protection of their dignity, honour and safety;

- provide transportation facilities to women employees who works in shifts. Additionally, a notice to this effect shall be exhibited at the main entrance of the establishment indicating the availability of transport;
- have adequate provision of restrooms, lavatories, safety lockers and other basic amenities; and
- constitute an internal complaints committee against sexual harassment of women under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

In case of violation of any of above-mentioned terms and conditions, necessary penal action will be initiated against the employer / manager in accordance with the provisions of the Act and rule made thereunder.

### Comments

It may be noted that the above-mentioned conditions are almost identical to the conditions (except in relation to the total spread over time) that were prescribed in the earlier notification issued on 22 March 2017. The Notification continues the trend of the Tamil Nadu Government looking to make it easier for information technology and information technology enabling services companies to operate there and has also provided for provisions for the safety of women although the words "*adequate protection of their dignity, honour and safety*" are quite vague and generic.

- Vinay Joy (Partner) and Luv Mohan Saggi (Associate)

For any queries please contact: [editors@khaitanco.com](mailto:editors@khaitanco.com)

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#### Mumbai

One Indiabulls Centre, 13<sup>th</sup> Floor  
Tower 1 841, Senapati Bapat Marg  
Mumbai 400 013, India

T: +91 22 6636 5000  
E: [mumbai@khaitanco.com](mailto:mumbai@khaitanco.com)

#### New Delhi

Ashoka Estate, 12th Floor  
24 Barakhamba Road  
New Delhi 110 001, India

T: +91 11 4151 5454  
E: [delhi@khaitanco.com](mailto:delhi@khaitanco.com)

#### Bengaluru

Simal, 2nd Floor  
7/1, Ulsoor Road  
Bengaluru 560 042, India

T: +91 80 4339 7000  
E: [bengaluru@khaitanco.com](mailto:bengaluru@khaitanco.com)

#### Kolkata

Emerald House  
1 B Old Post Office Street  
Kolkata 700 001, India

T: +91 33 2248 7000  
E: [kolkata@khaitanco.com](mailto:kolkata@khaitanco.com)