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## India: Extension of 365 Day Operation Exemption and Permission for Women Working at Night in Telangana

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On July 25, 2019, the Government of Telangana issued two notifications extending the permission to shops and establishments to operate on a 365 day basis for a 3 year period with effect from June 16, 2019 and exempting Information Technology ("IT") and Information Technology Enabled Services ("ITES") establishments in Telangana from the provisions of Sections 15, 16, 21, 23, 31 of the Telangana Shops and Establishments Act, 1988 (the "Act") for a period of 5 years from May 30, 2018.

1. The Telangana Government had issued the notification permitting 365 days operation in June 2015, which has now been extended for a 3-year period till June 16, 2022 subject to conditions, including:
  - An employee is allowed to work 8 hours per day and 48 hours per week, with one weekly holiday. Overtime worked needs to be recorded by the employer and if an employee is found to be working on a holiday or after normal working hours without overtime being duly recorded, the exemption may be cancelled.
  - Working hours of a shop shall be 9:00 am to 11:00 pm.
  - Women employees working beyond 8:30 pm shall be provided with transport by the employer.
  - Employees need to be provided with appointment letters, with a copy of the same being provided to the jurisdiction inspector and an acknowledgement being preserved for any future inspection.
  - The employer must maintain a visit book exhibiting a copy of the concerned exemption.

- Wages for employees must be credited to their saving bank accounts, with due Employees Provident Fund and Employees State Insurance deductions being made for eligible employees.
2. IT and ITES companies continue to be exempted from Sections 15, 16, 21, 23 and 31 of the Act for a period of 5 years till May 30, 2023. The said sections relate to opening and closing hours, daily and weekly hours of work, special provision for young persons, special provisions for women and other holidays in an establishment, respectively. This exemption had been in place since 2013, which now continues, subject to specific conditions to be complied with by an IT/ITES company, including:
- An employee can work 48 hours a week, with overtime being payable for work done beyond the said hours.
  - Employee are entitled to a weekly holiday.
  - Women employees and young employees can be engaged during the night shift (which is 8.30 pm to 6.00 am) subject to provision of adequate security during the course of employment and transportation to and from their residences.
  - Every employee shall be given a compensatory holiday in lieu of notified holidays with wages.
  - Identity cards shall be provided to all employees.
  - Stringent conditions are prescribed for transportation for employees. Employers have to screen all drivers prior to employment, including in case of outsourced drivers and obtain their biodatas. All details of driving license, photographs, addresses and telephone numbers of the drivers have to be maintained by the employer. Route scheduling has to be done by the employer, with no women employees being picked up first and dropped last. It is recommended that an employer should provide security guards for night shift vehicles with GPRS facility. Companies should have a control room or travel desk for monitoring vehicle movements.
  - The mobile number and addresses of women employees cannot be disclosed to any unauthorized person.
  - Companies should specify when security is provided to women employees for cab transportation, with a recommendation that this should be for the period between 8.00 pm and 6.00 am.
  - A general exemption has been granted from maintenance of statutory registers in hard copy format, with electronic registers being recognized for a compliance perspective.

If any of the aforementioned conditions are violated by a company, the exemption orders may be revoked by the State Government at any time without prior notice.

The extension of the operating hours and provision of flexi hours to companies in the IT/ITES sector in Telangana, including allowing women employees to work at night, is a progressive move, aimed at encouraging business growth and more employment in the State. It also places an onus on companies to be compliant with security conditions for women employees working at night, with an overall

compliance requirement by the employer to ensure that all employees are treated fairly in relation to social welfare conditions such as working hours and leave. Companies will do well to ensure that they are compliant with the required conditions to continue to avail of the exemptions.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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