

India

Conditions of Employment Now Must Be Approved by Government for IT and Software Companies in Bangalore, Karnataka

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Now that their blanket exemption ended, information technology (IT), IT enabled services (ITeS) and software services companies located in Bangalore must define and publish (by way of Standing Orders) uniform conditions of employment and apply to the labor department for certification, unless a specific exemption from such compliance is obtained from the State Government. The exemption ended when the State Government of Karnataka did not extend the blanket exemption under the Industrial Employment (Standing Orders) Act, 1946 (Standing Orders Act) to these industries. However, the State Government has indicated that it is willing to consider restoring the exemption to companies in this sector on a case by case basis, upon specific application being made in this respect, but the current blanket exemption has been abolished.

The Standing Orders Act, *inter alia*, requires the employer to define and publish uniform conditions of employment, including in relation to classification of workmen, manner of specifying the period and hours of work and holidays, shift working, attendance and late coming, conditions and procedure for granting leave, requirement to enter premises and liability to search, closing and reopening of the establishment, termination of employment, suspension and dismissal for misconduct, etc.

The Standing Orders Act is applicable to 'industrial establishments' employing a minimum of 100 workmen. Certain State Governments, such as the Governments of Maharashtra and Karnataka, have enhanced the scope of the statute and made it applicable to establishments employing at least 50 employees (workmen in case of Karnataka). The term 'industrial establishments' is defined under the statute and does not directly include commercial establishments such as IT/ITeS companies. The State Government of Karnataka, in 1999, had expressly exempted companies in the IT and ITeS sectors from the applicability of the Standing Orders Act for two years. The exemption continued to be extended thereafter, every two years, until August 2011. The State Government has not issued a similar extension thereafter and based on news articles it appears that the government is unlikely to extend the exemption. Seemingly, the State Government has taken this step in light of certain objections raised by support groups for women employees and the fact that the IT/ITeS industry enjoyed the exemption for 11 years. Instead, according to news reports and statements by the labor authorities, the labor authorities will apply the Standard Orders Act to IT/ITeS companies starting in September 2012.

Due to the Karnataka State Government's refusal to renew the exemption allowed to IT/ITeS companies, all such companies having at least 50 'workmen' (as defined under the Industrial Disputes Act, 1947), are required to comply with the provisions of the Standing Orders Act. Accordingly, IT/ITeS companies in Bangalore are required to draft and submit their standing orders and apply to the labor department for certification, unless a specific exemption from such

compliance is obtained from the State Government.

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