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India

Information Technology Sector in Karnataka to be Exempted from the Standing Orders Act

[Preetha S](#), [Veena Gopalakrishnan](#), and [Vikram Shroff](#), Nishith Desai Associates, Mumbai/Bangalore/Delhi

Information technology ("IT") and IT enabled Services ("ITeS") establishments in Karnataka (which includes the city of Bangalore) are proposed to be exempted from compliance under the Industrial Employment (Standing Orders) Act of 1946 ("Standing Orders Act") for a period of five years, per recent announcements of the Karnataka State Minister for Information Technology and Biotechnology.¹ An official notification bringing the exemption into effect is pending.

The Standing Orders Act requires employers in industrial establishments to define and publish uniform conditions of employment in the form of 'standing orders.' As per the statute, an employer is required to draft standing orders (in the format prescribed in the statute), have them approved by the representatives of the employees and eventually certified by the labor department. As per the enactment, the standing orders should contain terms of employment including; hours of work, wage rates, shift working, attendance and lateness, provisions for leaves and holidays, and termination, suspension or dismissal of workmen.

In 1999, the State Government of Karnataka exempted companies in the IT and ITeS sectors from the applicability of the Standing Orders Act for a period of two years. The exemption was extended every two years thereafter until August 2011. In September 2012, the Government exempted IT and ITeS establishments from the provisions of the Standing Orders Act until March 31, 2013, subject to the condition that establishments (to which the Standing Orders Act applies), submit their draft standing orders for certification with the Labor Commissioner by December 31, 2012.²

It also appears from press reports that the Karnataka State Government decided to declare the IT/ITeS industry an "essential service." That declaration effectively insulates the industry from strikes and protests because any strike initiated by the employees of an "essential services" company would be a violation of the provisions of the Industrial Disputes Act of 1957.³

This development is considered a progressive step by the IT/ITeS industry and industry bodies in Bangalore that seems to have come pursuant to representations made by the IT industry and consolidated efforts by various industry and trade organizations.⁴ This move is, however, facing criticism from the Labor Department, Government of Karnataka, certain women's groups, and employee organizations.⁵

¹ http://articles.economicstimes.indiatimes.com/2013-10-21/news/43250826_1_labour-law-information-technology-manufacturing-sector

² http://www.nishithdesai.com/fileadmin/user_upload/pdfs/IT_or_ITeS_Establishments_in_Karnataka_Bangalore-Exempted_from_Industrial_Employment_Standings_Orders_Act_1946_Until_March_31_2013-

[While Their Draft Standing Orders Are Being Reviewed.pdf](#)

³ http://articles.timesofindia.indiatimes.com/2013-10-22/software-services/43286650_1_it-ites-power-tariff-industrial-employment

⁴ http://articles.economictimes.indiatimes.com/2013-10-22/news/43288786_1_start-ups-nasscom-body-national-association

⁵ <http://www.thehindu.com/news/cities/bangalore/it-labour-exemptions-create-furore/article5265708.ece> and http://articles.economictimes.indiatimes.com/2013-11-07/news/43776157_1_manufacturing-sector-labour-law-outsourcing-sector

American Bar Association Section of Labor and Employment Law
321 N Clark | Chicago, IL 60654 | (312) 988-5813