

HR Law Hotline

June 11, 2024

MUCH NEEDED EXTENSION OF EXEMPTIONS FOR IT-ITES ESTABLISHMENTS IN TELANGANA

- The extension provides much needed clarity and business certainty to IT-ITes establishment in Telangana.
- The extension of the exemption is valid till May 30, 2028.
- The notification deals with exemption around opening and closing hours of establishment, daily and weekly working hours, engaging women on night-shifts and ability to work on national and festival holidays.

The Government of Telangana has recently extended the exemption to the information technology enabled services and information technology establishments (“IT-ITes Establishments”) from certain provisions of the Telangana Shops and Establishments Act, 1988 (“Telangana Shops Act”) for a further period of 4 years with effect from May 30, 2024 vide notification dated June 7, 2024¹ (“Notification”), subject to them adhering to certain conditions prescribed in the Notification.

The earlier notification was issued on July 25, 2019² and was valid for a period of 5 years and, subsequently extended by 1 year with effect from May 30, 2023, vide notification dated November 11, 2023³.

Vide the Notification, the IT-ITes Establishments have been exempted from the following sections of the Telangana Shops Act:

Section No.	Overview of the provision
15	Opening and closing hours – Shops and commercial establishments are required to adhere to the opening and closing hours prescribed by the government.
16	Daily and weekly hours of work – The Telangana Shops Act prescribes the employees shall work upto a maximum number of eight hours per day and upto a maximum number of forty-eight hours week. the provision also states that an employee may work upto a maximum of six hours of overtime in a week.
21	Work timings for young persons – Young persons are prohibited from working before 6 AM and after 7 PM.
23	Work timings for women – Women employees are prohibited from working before 6 AM and after 8:30 PM i.e. night-shift. (Please note that the Telangana State Government had previously issued an exemption to <i>all the establishments in Telangana state</i> from this provision subject to compliance with certain conditions listed in the notification allowing women employees to work in night shifts.)
31	Mandatory national and festival holidays – The Telangana Shops Act prescribes nine mandatory national and festival holidays on which establishments are to grant holidays to employees.

THE EXEMPTIONS UNDER THE NOTIFICATION ARE SUBJECT TO THE EMPLOYER ADHERING TO CERTAIN CONDITIONS, INCLUDING:

(i) Weekly working hours have been fixed at 48 hours. For the work done beyond 48 hours, employee is entitled for overtime wages.

(ii) Every employee must be given a weekly off.

(iii) The management is permitted to engage young and women employees during the night shift subject to provision of adequate security during the course of employment and to and fro transport from their respective residences.

(iv) Every employee shall be given a compensatory holiday in lieu of notified mandatory national and festival holidays, with wages under the provision to sub-section (2) of section 31 of the Telangana Shops Act if they work on such notified holidays.

(v) Employers shall obtain biodata of each driver and conduct pre-employment screening of the antecedents of all drivers employed on their own or through outsourcing.

If any of the conditions as listed in the Notification are violated, the exemption issued may be revoked by the government at any time without any prior notice.

CONCLUSION:

Given Hyderabad (in the state of Telangana) is a booming hub for global IT/ITes companies, the Notification is a

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welcome stride in making the region more investor and business friendly. Such a measure is part of the Government of Telangana's strategy to encourage investments in the state by lending more flexibility to archaic labour laws thereby increasing the ease of doing business. With the Notification in place, global companies will be able to fine tune their work hours as per global business requirements, align with specific operating hours unique to IT/ITes Establishments (e.g. being on-call, shifts etc.). The Notification is also in alignment with the prior notification (applicable to all establishments in Telangana) on conditions for employing women on night shifts. This is a welcome measure and anticipated relief in allowing flexibility in operations to the IT/ITes Establishments in the Indian state of Telangana, most of which have their parent offices outside India.

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You can direct your queries or comments to the relevant member.

¹<https://goir.telangana.gov.in/>

²https://labour.telangana.gov.in/content/gos/GOMsNo25_Exemption_to_IT.PDF

³<https://unitedconsultancy.com/wp-content/uploads/2024/01/Telangana-Exemption-Extension-ITITES-Valid-till-May-2024-1.pdf>

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