

Circular No – 019 / 2023

Date: 08-02-2023

To
All Members of The Association

OCCUPATIONAL HEALTH CENTRES MAINTAINED AT FACTORIES
WHETHER COVERED UNDER THE KPME ACT

1. The officials of the Directorate of Factories, Boilers, Industrial Safety and Health, during the course of inspection of one of the factories pointed out that Occupational Health Centres maintained at the factories in accordance with the Factories Act 1948 read along with the Karnataka Factories Rules 1969 shall have to be registered under the Karnataka Private Medical Establishment Act 2007(KPME Act).
2. The Association had taken up the matter with the Director of Factories etc, pointing out that having regard to the definition of Private Medical Establishment defined under the KPME Act such registration is not required.
3. In reply the Directorate of Factories informed by his letter the Association that the Director, Health and Family Welfare has clarified that the Occupational Health Center should also register themselves under KPME Act read with Rules thereunder.



4. Association has taken up the matter with the Director of Health and Family Welfare, Bengaluru. A copy of the letter dated: 3.2.2023 addressed to the said authority is attached which speaks for itself.
5. Further development in this behalf will be informed to the members.

For KARNATAKA EMPLOYERS' ASSOCIATION

**Sd/
[B C Prabhakar]
President**

o/c

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KARNATAKA EMPLOYERS' ASSOCIATION

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Reg. No. TU 507 / 20-3-1962

B.C. Prabhakar, B.A., B.L.,
President

Date:03.02.2023

Director
Health & Family Welfare Department
Government of Karnataka
Arogyasoudha 1st Cross road,
Magadi Road Leprosy Hospital Compound
Bengaluru 560023

Dear Sir,

Sub: Registration of Occupational Health Centres maintained at Factories

1. The officials of the Directorate of Factories, Boilers, Industrial Safety and Health, during the course of inspection of factories have been pointing out that Occupational Health Centres maintained at the factories in accordance with the Factories Act 1948 read along with the Karnataka Factories Rules 1969 shall have to be registered under the Karnataka Private Medical Establishment Act 2007.

2. The association had taken up the matter with the Director of Factories etc, pointing out as under:

2.1. The KPME Act provides for promotion and monitoring of private medical establishments in the State of Karnataka and matters connected there with or incidental there to. The preamble to the Act states that it is expedient in the public interest to promote quality health care and monitor by law the running of the private medical establishment in the state by

ಕರ್ನಾಟಕ ರಾಜ್ಯ ನೌಕರರ ಸಂಘ ನಿರ್ದೇಶಕರು & ಸಿಬ್ಬಂದಿ "ಅಧಿಕಾರಿಗಳ ಕಛೇರಿ", ಬೆಂಗಳೂರು-23.
ದಿನಾಂಕ: 31/2/23



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stipulating minimum standards of quality of service keeping in view with the principles of medical ethics.

2.2. Section 2(n) of the Act defines Private Medical Establishment as under;

"Private Medical Establishment" means a hospital or dispensary with beds or without beds, a Nursing Home, Clinical Laboratory, Diagnostic Centre, Maternity Home, Blood Bank, Radiological Centre, Scanning Centre, Physiotherapy Centre, Clinic, Polyclinic, Consultation Centre and such other establishments by whatever name called where investigation, diagnosis and preventive or curative or rehabilitative medical treatment facilities are provided to the public and includes Voluntary or Private Establishments but does not include Medical Establishments run or maintained or sponsored by,-

(i) the State Government or a Local Authority or other Statutory body;

(ii) the Public Sector undertakings owned or controlled by the State or Central Government;

(iii) autonomous institutions owned or controlled by the State or Central Government;

(iv) a Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 in which more than fifty per cent of shares are held by the State or Central Government or both;

(v) a Society registered under the Karnataka Societies Registration Act, 1960 and which is owned or controlled by the State or Central Government;

(vi) a trust owned or managed by the State or Central Government or any Local Authority.

- Combined reading of the above two paragraphs would clearly indicate that Occupational Health Centre maintained at the factories is not a Private Medical Establishment as defined under the Act.
- The Occupational Health Centre is a factory not meant for providing any medical care to the General Public. The whole object of mandating providing and maintaining Occupational Health

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Centre (OHC) is to ensure that in the event of any untoward incident which may result in injury to the employees working in the factory, immediate medical care is available in the factory itself. The OHC is not required to be maintained for the purpose of care and treatment of general public. OHC at the factory is not assessable to public. It is exclusively meant for the workers of the factory.

- 3 The Directorate of Factories have now informed the KEA association that the Director, Health and Family Welfare has clarified that the Occupational Health Center should also register themselves under KPME Act read with Rules thereunder. The directorate of factories have also sent a copy of the letter of the Director Health and Family Welfare dated 17.11.2020.
- 4 We find from the penultimate paragraphs of letter dated 17.11.2020 it is found that your good self has taken a view that in accordance with the KPME Act read along with Rule-3 and sub rule-2 of Rule-3 of KPME Rules, the Occupational Health Centers maintained at factories should also be registered under the Act.
- 5 The Association respectfully but firmly submits that the interpretation as above does not flow either from the Act or from the Rules thereunder.
 - The definition of private Medical Establishment defined under the Act clearly indicate that only the Medical Establishments in private who are rendering service to the public are required to be registered under the Act.
 - Chapter II of the KPME Rules only lays down the Categories of Private Medical Establishments which are required to be register under the Act.
 - Rule-3 of the Rules provides for categories of Private Medical Establishments which are required to be registered under the Act.

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- Rule-3 (2) further provides that the Establishments practicing Allopathic System of Medicine which are required to be registered under the Act.
- 6 The above Rules shall have to be read along with the definition of the private medical Establishments as defined under the Section 2 of the act which has been extracted above. There is no scope for any doubt to the effect that Private Medical Establishments providing medical treatment or service to the public should only be registered under the Act. Neither the Act nor the Rules provide that the Occupational Health Centers at the factories which are provided and maintained in accordance with the provisions of the Factories Act exclusively meant for the workers working in the factory should also be registered. The Occupational Centers are maintained at the factory as a part of statutory obligation under the Factories Act. The Karnataka Factories Rules 1969 contain specific provision as to the manner of providing and maintaining Occupational Health Centre. The regulatory provisions with regard to Occupational Health Centre are governed by the Factories Act and the Rules thereunder.
- 7 The Association submits that the cumulative effect of the above submissions is that the provisions of the KPME Act are not applicable to the Occupational Health Centre at the factory which is exclusively meant for employees working in the factory.
- 8 We, therefore, request your good self to have the issue re-examined and issue appropriate advice to the Directorate of Factories, Boilers, Industrial Safety and Health Bengaluru. An early action will be highly appreciated.

For Karnataka Employers' Association

B.C. Prabhakar

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