



Circular No – 012 / 2023

Date: 01-02-2024

To
All Members of The Association

**KEA WRITES TO THE PRINCIPAL SECRETARY PERTAINING
TO EXEMPTION OF IT AND ITES ESTABLISHMENTS FROM
THE PROVISIONS OF THE INDUSTRIAL EMPLOYMENT
(STANDING ORDERS) ACT**

The Association came across a news item in the press report dated 22.12.2023 with the heading "Karnataka to Hold Talks to Bring IT Companies under Labour Laws" (Times of India dated 22.12.2023). The reporting is misleading, Labour laws are applicable to the IT and ITES Establishment as applicable to the establishments registered under the Karnataka Shops and Commercial Establishments Act. However, the Government of Karnataka has exempted the IT and ITES Establishments only from the provisions of the Industrial Employment (Standing Orders) Act. The exemption was first granted in the year 2009 and it has been extended.

The notification dated 25.05.2019 would expire on 24.05.2024. Press report indicates that the Government proposes to consult with IT, BT companies and Trade Unions and other stakeholders to explore the possibilities of withdrawing the exemption provided to Information Technology (IT, ITES, BPO's) Companies from the Industrial Employment (Standing Orders) Act 1946.

In this regard, KEA has written to the Principal Secretary, Labour Department, Government of Karnataka requesting the Government not to proceed with the



proposal to withdraw the exemption granted to the IT and ITES Establishments from the provisions of the Industrial Employment (Standing Orders) Act. The Association further request that the exemption from the applicability of the Industrial Employment (Standing Orders) Act may be further extended from 25.05.2024 for a period of two years with a specific condition that if the Industrial Relations Code is implemented, the exemption granted to the IT and ITES Establishment stands withdrawn.

A copy of the KEA letter dated 29-12-2023 is enclosed.

For KARNATAKA EMPLOYERS' ASSOCIATION

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

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KARNATAKA EMPLOYERS' ASSOCIATION

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

Date:29.12.2023

The Principal Secretary
Department of Labour
Government of Karnataka
Vikasa Soudha
Bengaluru - 560001

Dear Sir,

Sub: Exemption of IT and ITES Establishments from the Provisions of the Industrial Employment (Standing Orders) Act

1. The Association has come across a news item in the press report dated 22.12.2023 with a heading "Karnataka to Hold Talks to Bring IT Companies under Labour Laws" (Times of India dated 22.12.2023).
2. The above reporting is misleading. Labour laws are applicable to the IT and ITES Establishment as applicable to the establishments registered under the Karnataka Shops and Commercial Establishments Act. However, the Government of Karnataka has exempted the IT and ITES Establishments only from the provisions of the Industrial Employment (Standing Orders) Act. The exemption was first granted in the year 2009 and it has been extended. The details thereof are given below for ready reference.

Date of Notification and date of publication in Karnataka Gazette	of Period for which exemption was available	Remarks

No. LD 115 LET 2007 dated 26.08.2009. The notification was published on 26.08.2009.	Two years from the date of publication in the official gazette. The period of two years expired on 25.08.2011.	No conditions were imposed for granting exemption.
There was no exemption during the period from 26.08.2011 to 29.09.2012.		
No. LD 201 LET 2012 dated 24.09.2012.	The exemption was granted upto 31.03.2013.	The exemption was subject to condition that the employers of the establishment coming under the purview of the Industrial Employment (standing Orders) Act 1946 shall submit their draft standing orders for the certification of the Labour Commissioner before 31.12.2012.
No. LD 53 LET 2013 dated 08.03.2013 published in Karnataka Gazette on 08.03.2013.		The exemption granted under notification dated 08.03.2013 was not changed. However, the establishments were required to submit the draft standing orders by 31.03.2013.
There was no exemption during the period from 01.04.2013 to 25.01.2014.		
No. LD 53 LET 2013 dated 25.01.2014	The exemption was for a period of 5 years from the date of publication in the official gazette.	Subject to the conditions stipulated in the notice.

No. LD 194 LET 2016 dated 25.05.2019.	For a further period of 5 years from the date of publication of the notification in the official gazette	The notification dated 25.05.2019 is in continuation of the notification dated 25.01.2014 and the exemption was extended for a further period of 5 years subject to the same conditions as specified in the notification of January 2014.
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3. The notification dated 25.05.2019 would expire on 24.05.2024. Press report indicates that the Government proposes to consult with IT, BT companies and Trade Unions and other stakeholders to explore the possibilities of withdrawing the exemption provided to Information Technology (IT, ITES, BPO's) Companies from the Industrial Employment (Standing Orders) Act 1946.
4. In the above context, the Association would like to submit that the Industrial Relations Code 2020 has already become an Act and the Government of India is yet to notify the date from which the code will be enforced. The Association understands that the Government of India would notify the date from which the code come into force, once the Central Rules and State Rules are finalized. The Association further understands that most of the States have already finalized the Rules and awaiting the notification of Government of India with regard to date from which the revised codes would come into force.
5. The Industrial Relations Code contains a chapter on Standing Orders. Section 29 of the Industrial Relations Code provides as under:

"29. (1) The Central Government shall make model standing orders relating to conditions of service and other matters incidental thereto or connected therewith.

(2) Notwithstanding anything contained in sections 30 to 36, for the period commencing on the date on which this section becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Code come into operation under section 33 in that establishment, the model standing order referred to in sub-section (1) shall be deemed to be adopted in that establishment and the provisions of sub-section (2) of section 33 and section 35 shall apply to such model standing orders as they apply to the standing orders so certified. (Emphasis added)”

6. In terms of the above, once the code is enforced the provisions of Section 29 would also be applicable to the IT and ITES Establishments in Karnataka. IT and ITES Establishments shall have to follow the provisions of Section 29(2) referred to above. They shall have to adopt the Model Standing Orders laid down by the Central Government. Unless any change to the Model Standing Orders are required, there is no need for modification of the Model Standing Orders and obtaining certification of such change from the Certifying Officer.
7. With the implementation of the Labour Court, the Model Standing Orders would be applicable to the Industrial Establishment employing 300 or more than 300 workers were employed on any day of the preceding 12 months. The Industrial Establishment concerned may adopt the Model Standing Orders and there is no need for following the procedure for certification of the Standing Orders unless any change is required to the Model Standing Orders to meet the special requirement of the Industrial Establishments.
8. Once the Industrial Relations Code is implemented, the Model Standing Orders would be applicable to the IT and ITES Establishments and other Industrial Establishments which employed 300 or more workmen.

9. The whole process will be advantageous to both to the employers as well as the Certifying Officer. The companies need not submit the draft standing orders unless they require any changes to the Model Standing Orders and have the changes certified by the Certifying Officer. The same would also relieve the Certifying Officers concerned from holding certification proceedings and thus, save the time for other functions which they are under obligation under the Industrial Relations Code for maintaining Industrial Peace and harmony in the state.
10. In view of the above position, the Association requests the Government not to proceed with the proposal to withdraw the exemption granted to the IT and ITES Establishments from the provisions of the Industrial Employment (Standing Orders) Act.
11. The Association further request that the exemption from the applicability of the Industrial Employment (Standing Orders) Act may be further extended from 25.05.2024 for a period of two years with a specific condition that if the Industrial Relations Code is implemented, the exemption granted to the IT and ITES Establishment stands withdrawn.

For Karnataka Employers' Association

B. C. Prabhakar

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President

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