



JSA Newsletter Employment Law

December 2023

This JSA Employment Newsletter provides a brief roundup of key regulatory employment updates over the year 2023. We have also summarized the key topical updates covered by us in previous editions of the newsletters this year.

Regulatory updates covered

January, 2023

- **Mandatory usage of online application portal for approval and renewal of factory licenses in Puducherry:** The Office of the Chief Inspector of Factories and Boilers, Government of Puducherry *vide* order dated January 12, 2023, mandated that applications for approval and renewal of licenses must be made exclusively through the online portal. To read more, click [here](#).
- **Units/ factories in SEEPZ-Special Economic Zone, Maharashtra employing 50 (fifty) or more female workers to mandatorily provide creche facilities:** The Office of the Development Commissioner, SEEPZ-Special Economic Zone, Maharashtra *vide* circular dated January 12, 2023, has directed units/ factories engaging more than 50 (fifty) female workers to mandatorily provide creche facilities or avail common creche facilities. To read more, click [here](#).
- **Ordinance promulgated to provide for approval and inspection related exemptions for industrial units set up in notified areas in Madhya Pradesh:** The Governor of Madhya Pradesh *vide* gazette notification dated January 27, 2023, promulgated an ordinance to provide certain exemptions to industrial units in notified areas for a period of 3 (three) years from the date of issuance of exemption. To read more, click [here](#).

February, 2023

- **Notification of Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) First Amendment Rules, 2023:** The Government of Himachal Pradesh *vide* notification dated February 8, 2023, notified the rules for registration of construction workers under the welfare fund constituted under the Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008. To read more, click [here](#).
- **Introduction of time limits for grant of registration and licenses to employers of inter-state migrant workmen and contract labourers in Gujarat:** The Government of Gujarat *vide* notification dated February 20, 2023, notified the: (a) Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) (Gujarat) (Amendment) Rules, 2023; and (b) Contract Labour (Regulation and Abolition) (Gujarat) (Amendment) Rules, 2023, to introduce timelines for processing of licenses and registrations. To read more, click [here](#).
- **Conditions prescribed for employment of women in notified establishments in Haryana:** The Government of Haryana *vide* notification dated February 21, 2023, laid down certain conditions for employment of women in notified establishments during night shifts. To read more, click [here](#).
- **Directions under the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 ("Maharashtra S&E Act"):** The Government of Maharashtra *vide* notification dated February 22, 2023, notified 'local authorities' for the purposes of the Maharashtra S&E Act; and directed display of name boards of shops and establishments in Marathi. To read more, click [here](#).

March, 2023

- **Amendments to professional tax payable in Karnataka:** The Government of Karnataka, *vide* notification dated March 14, 2023, notified the Karnataka Tax on Profession, Trades, Callings and Employments (Amendment) Act, 2023, to amend the Karnataka Tax on Profession, Trades, Callings and Employments Act, 1976 with effect from April 1, 2023. To read more, click [here](#).
- **Display of name boards in Punjabi language mandated upon establishments in Punjab:** The Government of Punjab, *vide* notification dated March 24, 2023, notified the Punjab Shops and Commercial Establishments (First Amendment) Rules, 2023, to amend the Punjab Shops and Commercial Establishments Rules, 1958 to mandate upon establishments the display of name boards in Gurumukhi script in Punjabi. To read more, click [here](#).

April, 2023

- **Exemptions granted on opening and closing hours of shops and commercial establishments in Telangana:** The Government of Telangana, *vide* notification dated April 4, 2023, permitted shops and establishments under the Telangana Shops and Commercial Establishments Act, 1968 to operate on a 24*7 basis, subject to compliance with prescribed conditions. To read more, click [here](#).
- **Notification of the Madhya Pradesh Udyogon Ki Sthapna Evam Parichalan Ka Saralikaran Adhiniyam, 2023:** The Government of Madhya Pradesh, *vide* notification dated April 6, 2023, notified the Madhya Pradesh Udyogon Ki Sthapna Evam Parichalan Ka Saralikaran Adhiniyam, 2023 to allow industrial units being set up in notified areas to apply for exemptions in relation to approvals (including licenses, registrations) to be obtained in connection with the establishment or operation of an industrial unit under applicable laws. To read more, click [here](#).
- **Introduction of Maharashtra State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2023:** The Government of Maharashtra *vide* notification dated April 6, 2023, introduced the Maharashtra State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2023 to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 with effect from April 1, 2023. To read more, click [here](#).
- **Notification of Maharashtra Labour Laws (Amendment) Act, 2022:** The Government of Maharashtra, *vide* notification dated April 11, 2023, notified the Maharashtra Labour Laws (Amendment) Act, 2022, amending imprisonment and fine related provisions under the Maharashtra Industrial Relations Act, 1947, the Maharashtra Labour Welfare Fund Act, 1953, the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969, the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, and the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983. To read more, click [here](#).
- **Aadhar seeding and authentication facilities introduced in the ESIC web-portal:** The Employees' State Insurance Corporation, *vide* notification dated April 17, 2023, has announced that Aadhar identification numbers of employees (insured persons) being newly registered on the portal of www.esic.gov.in can now be seeded and authenticated at the time of their registration, using the e-KYC process of UIDAI.
- **Notification of the Factories (Goa Amendment) Act, 2019:** The Factories (Goa Amendment) Act, 2019 was notified *vide* gazette notification dated April 19, 2023, to amend the Factories Act, 1948 as applicable in the State of Goa to provide exemptions in relation to inter alia, prescribed weekly and daily working hour limits. To read more, click [here](#).
- **Notification of Andhra Pradesh Rights of Persons with Disabilities Rules, 2023:** The Government of Andhra Pradesh, *vide* notification dated April 24, 2023, notified the Andhra Pradesh Rights of Persons with Disabilities Rules, 2023. To read more, click [here](#).

May, 2023

- **Notification of certain provisions under the Social Security Code, 2020:** The Ministry of Labour and Employment, Government of India, *vide* notification dated May 3, 2023, has appointed May 3, 2023, as the effective date of certain provisions of the Code on Social Security, 2020 relating to the employees' pension scheme. To read more, click [here](#).
- **Shops and establishments in Telangana permitted to remain open on all 365 (three hundred and sixty five) days of the year for a further period of 3 (three) years:** The Government of Telangana, *vide* order dated May 15, 2023, has permitted shops and establishments under the Telangana Shops and Establishments Act, 1988 to remain open on all 365 (three hundred and sixty five) days of the year, subject to prescribed conditions. To read more, click [here](#).
- **Extension of closing hours of shops and commercial establishments in Himachal Pradesh:** The Government of Himachal Pradesh, *vide* notification dated May 20, 2023, has extended the closing hours of shops and commercial establishments in Himachal Pradesh. To read more, click [here](#).

June, 2023

- **Establishments in Punjab permitted to remain open on all 365 (three hundred sixty five) days of the year:** The Government of Punjab, *vide* notification dated June 8, 2023, extended permission to all establishments under the Punjab

Shops and Commercial Establishments Act, 1958 to remain open on all days of the year, for a period of 1 (one) year, up to May 31, 2024, subject to prescribed conditions. To read more, click [here](#).

- **Aadhar authentication requirement for labour schemes in Chhattisgarh:** The Government of Chhattisgarh, *vide* 3 (three) notifications dated June 30, 2023, notified the requirement of Aadhar authentication for individuals desirous of obtaining worker registrations and benefits under government implemented schemes. To read more, click [here](#)
- **Notification of sector specific accessibility standards under the Rights of Persons with Disabilities Rules, 2017:** The Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities, Government of India *vide* various notifications has amended the Rights of Persons with Disabilities Rules, 2017 to notify sector specific accessibility standards to be complied with by establishments, including in the sports, culture, information and communication technology-based products and services, civil aviation, rural and health care sectors. To read more, click [here](#).

July, 2023

- **Factories in Andhra Pradesh to comply with prescribed safety measures for work in “confined spaces”:** The Government of Andhra Pradesh, *vide* notification dated July 7, 2023, issued detailed guidelines/ instructions applicable to factories in Andhra Pradesh to prescribe safety measures to be adopted by occupiers and managers of factories with respect to workers required to work in “confined spaces”. To read more, click [here](#).
- **Exemption of certain classes of persons from payment of tax under the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976:** The Government of Karnataka, *vide* notification dated July 13, 2023, exempted certain classes of persons from payment of tax under the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, with effect from the date of publication of the notification in the state gazette, i.e., July 13, 2023. To read more, click [here](#).
- **Establishments in Meghalaya permitted to remain open 365 (three hundred and sixty five) days a year:** The Government of Meghalaya *vide* notification dated July 19, 2023, permitted all establishments under the Meghalaya Shops and Establishments Act, 2003 to remain open on all 365 (three hundred and sixty five) days of the year for a further period of 1 (one) year, i.e., till December 31, 2023, subject to conditions stated therein. To read more, click [here](#).
- **Revision in rate of labour welfare fund contribution in Haryana:** The Government of Haryana, *vide* notification dated July 27, 2023, increased the upper limit of contribution payable by each employee to the labour welfare fund under the Punjab Labour Welfare Fund Act, 1965. To read more, click [here](#).

August, 2023

- **Notification of Punjab Building and Other Construction Workers (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2023:** The Government of Punjab, *vide* notification dated August 7, 2023, notified the Punjab Building and Other Construction Workers (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2023, to amend certain rules of the Punjab Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008 with effect from August 11, 2023. To read more, click [here](#).
- **Notification of Factories (Karnataka Amendment) Act, 2023:** The Government of Karnataka, *vide* notification dated August 7, 2023, has notified the Factories (Karnataka Amendment) Act, 2023, to amend provisions of the Factories Act, 1948 in its application to Karnataka. To read more, click [here](#).
- **Partial stipend support under National Apprenticeship Promotion Scheme – 2:** The Ministry of Skill Development and Entrepreneurship, Government of India, *vide* notification dated August 25, 2023, issued ‘Guidelines for Implementation of National Apprenticeship Promotion Scheme-2’ (NAPS-2) under the Apprentices Act, 1961, to replace the previous version of the scheme, with effect from August 25, 2023. To read more, click [here](#).

September, 2023

- **Exemption of factories in Punjab from prescribed limitations on working hours:** The Government of Punjab *vide* notification dated September 20, 2023, has exempted factories in Punjab from compliance with Sections 51 (*weekly hours*), 52 (*weekly holidays*), 54 (*daily hours*), and 56 (*spread over*) of the Factories Act, 1948, subject to prescribed conditions. To read more, click [here](#).

October, 2023

- **Standard Operating Procedure (“SOP”) notified for establishments exempted from the Employees’ Provident Fund Scheme, 1952 (“EPF Scheme”):** The Employees’ Provident Fund Organisation has *vide* notification dated October 6, 2023, issued an SOP for management and regulation of provident fund contributions in certain establishments may exempted from the EPF Scheme. To read more, click [here](#).

- **Payment of minimum wages, maintenance of separate toilets and pay parity for male and female construction workers in Delhi mandated:** The Government of National Capital Territory of Delhi *vide* its circular dated October 18, 2023, has directed that all employers/ contractors/ establishments of a construction site under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 to ensure payment of minimum wages, maintenance of separate toilets and pay parity for male and female construction workers. To read more, click [here](#).
- **Aadhar authentication mandated to avail benefits under welfare schemes implemented by Delhi Building & Construction Workers Welfare Board:** The Government of National Capital Territory of Delhi *vide* notification dated October 20, 2023, has notified that individuals desirous of availing benefits under welfare schemes implemented by the Delhi Building & Other Construction Workers Welfare Board, are required to undergo Aadhar authentication as a pre-requisite to availing such benefits. To read more, click [here](#).
- **Introduction of the Manipur Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2021:** In repeal of the Manipur Shops and Establishments Act, 1972 and the Manipur Shops and Establishments (Regulation of Employment and Conditions of Service) Ordinance, 2021, the Government of Manipur enacted the Manipur Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2021, with effect from June 29, 2021. To read more, click [here](#).

November, 2023

- **Classification of certain industries as 'public utility service' under the Industrial Disputes Act, 1947:** The Ministry of Labour and Employment *vide* notifications each dated November 9, 2023, has, in public interest, notified that services of industries engaged in: (a) the processing or production or distribution of fuel gases (coal gas, natural gas and the like); (b) the lead and zinc mining industry and (c) food stuffs, to be a 'public utility service' for purposes of the Industrial Disputes Act, 1947. To read more, click [here](#).
- **Relaxation of obligation to mandatorily upload details of contract workers deployed in Delhi:** The Office of the Commissioner (Labour), Government of National Capital Territory Delhi *vide* its order dated November 10, 2023, relaxed its earlier directions in relation to mandatory uploading of details of contract workers on the website of the contractor/ principal employer. To read more, click [here](#).

Topical updates covered

- **Establishments directed to engage apprentices in compliance with the Apprentices Act, 1961:** We share insights on the Apprentices Act, 1961, particularly in light of the on-going scrutiny and compliance requirement by the Board of Apprenticeship Training, Ministry of Education. To read more, click [here](#).
- **Arbitrability of disputes arising out of employment contracts:** We discuss the arbitrability of disputes arising out of employment contracts in India by analysing relevant judicial precedents on the subject matter. To read more, click [here](#).
- **Employment bonds in India:** We discuss the position with respect to validity and enforceability of employment bonds in India by analysing relevant judicial precedents on the subject matter. To read more, click [here](#).
- **'No work, no pay' principle:** We discuss the judicial principle of 'no work no pay' by analysing relevant judicial precedents on the subject matter. To read more, click [here](#).
- **Exception to due process in conducting disciplinary proceedings: 'useless formality' theory:** We discuss the 'useless formality' theory as an exception to due process in conducting disciplinary proceedings. To read more, click [here](#).
- **Processing of employee personal data under Digital Personal Data Protection Act, 2023:** We provide an overview of key compliances on handling employee personal data and corresponding obligations under the newly enacted Digital Personal Data Protection Act, 2023. To read more, click [here](#).
- **Enforceability of post-termination restrictive covenants in employment contracts:** We provide a snapshot on the validity of enforcement of key post-termination restrictive covenants such as non-compete, non-solicit and confidentiality obligations in employment contracts in India. To read more, click [here](#).
- **Workplace compliances under the HIV and AIDS Act:** We discuss key workplace compliances under the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 and applicable notified rules. To read more, click [here](#).
- **Employing women in nightshifts: key compliances across states:** We discuss the key compliances for employers of commercial establishments in engaging women in night shifts, in Karnataka, Maharashtra, Telangana, Tamil Nadu and Haryana. To read more, click [here](#).

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

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<p>17 Practices and 24 Ranked Lawyers</p>	<p>16 Practices and 11 Ranked Lawyers</p>	<p>19 Practices and 19 Ranked Lawyers</p>
		
<p>11 Practices and 39 Ranked Partners IFLR1000 APAC Rankings 2022</p> <p>-----</p> <p>Banking & Finance Team of the Year</p> <p>-----</p> <p>Fintech Team of the Year</p> <p>-----</p> <p>Restructuring & Insolvency Team of the Year</p>	<p>Among Top 7 Best Overall Law Firms in India and 9 Ranked Practices</p> <p>-----</p> <p>11 winning Deals in IBLJ Deals of the Year</p> <p>-----</p> <p>10 A List Lawyers in IBLJ Top 100 Lawyer List</p>	<p>Banking & Financial Services Law Firm of the Year 2022</p> <p>-----</p> <p>Dispute Resolution Law Firm of the Year 2022</p> <p>-----</p> <p>Equity Market Deal of the Year (Premium) 2022</p> <p>-----</p> <p>Energy Law Firm of the Year 2021</p>
		
<p>7 Practices and 2 Ranked Lawyers</p>	<p>Ranked #1 The Vahura Best Law Firms to Work Report, 2022</p> <p>-----</p> <p>Top 10 Best Law Firms for Women in 2022</p>	

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