

## **Karnataka shops and commercial establishments to operate 24x7 throughout the year**

Following an earlier notification issued in 2021, and as part of efforts to support Karnataka's economic growth and the booming information technology ("IT") and IT enabled services industry, the Government of Karnataka recently issued a notification on September 27, 2024, allowing all shops and commercial establishments in Karnataka employing 10 (ten) or more persons to operate on a 24x7 basis throughout the year. The notification is effective for a period of 3 (three) years subject to prescribed conditions ("**2024 Notification**").

### **Key requirements under the 2024 Notification**

The 2024 Notification provides that the permission granted thereunder is subject to Section 12(3) of the Karnataka Shops and Commercial Establishments Act, 1961 ("**S&E Act**"), which provides eligible employees in an establishment to at least 1 (one) whole day in a week as a holiday for rest, and additionally outlines several important requirements to ensure the welfare of employees while promoting extended operational hours:

1. **Appointment of additional staff:** Every employer is required to appoint additional staff to ensure that every employee can avail 1 (one) day of holiday per week on a rotational basis. Details of every employee is required to be displayed by the employer at a conspicuous place in the shop or commercial establishment.
2. **Exhibit details of employees on holiday or leave:** Employers are required to display details of employees who are on holiday or leave on a daily basis, at a conspicuous place in the shop or commercial establishment.
3. **Wage payments:** Wages and overtime pay must be credited to employees' savings bank accounts in accordance with the Payment of Wages Act, 1936.
4. **Working hours:** Employees cannot be made to work for more than 8 (eight) hours a day or 48 (forty-eight) hours a week. The maximum work period, including overtime, must not exceed 10 (ten) hours in any day, and the total overtime must be capped at 50 (fifty) hours in a period of 3 (three) continuous months.
5. **Women's safety:** Written consent from women employees is required if they are asked to work between 8:00 PM and 6:00 AM. Employers are also required to provide adequate protection and transport arrangements for women working during these hours. A notice indicating transport availability is to be displayed at the main entrance of the shop or commercial establishment.
6. **Basic amenities:** Employers must provide essential facilities, including restrooms, washrooms, safety lockers, and other basic amenities for employees.
7. **Internal committee:** An internal committee, as mandated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, must be constituted and made operational.

## Compliance and Penalties

If employees are found working on holidays or after normal duty hours without proper overtime authorization, penal action can be initiated against the employer and/or manager as outlined in the S&E Act and the Karnataka Shops and Commercial Establishments Rules, 1963 ("**S&E Rules**").

The conditions outlined in the 2024 Notification are in addition to and are to be read together with the provisions of the S&E Act and the Employees' Compensation Act, 1923. Importantly, in case of violation of any of the above terms and conditions, as observed by an inspector or otherwise, necessary penal action can be initiated against employers or managers under the S&E Act and the S&E Rules.

## Conclusion

The 2024 Notification represents a significant step towards enhancing the operational flexibility of shops and commercial establishments in the State, particularly in supporting the booming IT and IT enabled services sectors. By allowing these establishments to operate 24x7, the government aims to foster economic growth while ensuring that employee welfare remains a priority. The comprehensive requirements outlined ranging from mandatory rest days and additional staffing to wage regulations and women's safety measures are designed to strike a balance between operational efficiency and the well-being of workers. Employers must remain vigilant in adhering to these regulations to avoid penalties and ensure a safe and equitable working environment.

## 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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25 Ranked Lawyers



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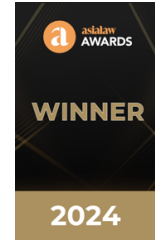


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