

Continued move towards women empowerment: Madhya Pradesh revises conditions for allowing women to work night shifts

For years in India, statutory provisions prohibiting employment of female employees in night shift have been argued as denying them the same opportunity as male employees. It has been established through judicial precedence¹ that employers cannot deny job opportunities to women workers on the grounds of 'night shift' work requirements. With a view to secure an inclusive workspace, several Indian states continue to issue notifications permitting employers to employ female employees in night shifts. These notifications prescribe several conditions to be satisfied by employers for engaging female employees in night shifts, with a continued focus on their safety and security, in order to enjoy the benefit of these exemptions.

Recently, in exercise of its powers under Section 3(2) of the Madhya Pradesh Shops and Establishments Act, 1958 ("**MP S&E Act**") and Section 66(1A) of the Factories Act, 1948 ("**Factories Act**"), the State of Madhya Pradesh *vide* notifications dated June 27, 2025², in supersession of its earlier notifications³ dated August 1, 2022 and June 24, 2016 respectively, directed (a) that provisions under Section 25 of the MP S&E Act (*which restricts women from working in inter alia commercial establishments between 9:00 PM and 7:00 AM*) will not apply to shops and commercial establishments in the state of Madhya Pradesh ("**2025 S&E Notification**"), and (b) measures for the safety of women required or allowed to work in any factory or manufacturing processes between 8:00 PM and 6:00 AM ("**2025 Factories Notification**"), subject to compliance with the prescribed conditions.

Notification under the MP S&E Act

Section 25 of the MP S&E Act prohibits employers from requiring or allowing *inter alios* women employees from working between 9:00 PM and 7:00 AM in shops and commercial establishments. In August 2022, the State of Madhya Pradesh issued a notification allowing employers to engage women employees during the above shift, subject to compliance with the prescribed conditions. These conditions largely focused on ensuring the safety and security of women employees, with a deeper compliance mandate around prevention of acts of sexual harassment and ensuring appropriate complaint redressal mechanisms, largely revolving around compliance mandates under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 ("**POSH Act**"). Notably, the compliance measures did not mandate employers to seek explicit written consent from women employees working night shifts.

¹ Treasa Josfine vs. State of Kerala, WP(C).No.25092 OF 2020(J)

² Notification No. 734/1/0016/2025/A-16 and 736/1/0015/2025/A-16.

³ Notification No. 1283/443/2022/A-16 and F-4E-2/2015/A-XVI.

In supersession of this notification, the 2025 S&E Notification prescribes revised compliance mandates for employers intending to engage women employees in night shifts. These include:

Sr. No.	Key conditions
1.	Provision of mandatory written consent of women employees for working in night shift, with a mandatory batch size of not less than 5 (five) women working during such shift.
2.	Compliance with provisions of Maternity Benefit Act, 1961 and other related prevailing laws.
3.	Ensuring safe and secure workplace, with provision of women guards at entry and exit points where 10 (ten) or more women are employed.
4.	Ensuring the prescribed sanitation requirements, including provision of closed-circuit television (CCTV) surveillance where 10 (ten) or more women are employed.
5.	Compliance with requirements under the POSH Act.

Notification under the Factories Act

Similar to the MP S&E Act, the Factories Act also prohibits employment of women workers during night shifts, unless otherwise exempted by notifications from applicable State Governments. The 2025 Factories Notification allows for similar relaxation for employers to permit women workers to work during night shift i.e. between 8:00 PM and 6:00 AM, subject to compliance with the following key conditions:

Sr. No.	Key conditions
1.	Provision of mandatory written consent of women employees for working in night shift, with a mandatory batch size of not less than 5 (five) women working during such shift.
2.	No women are to be employed against maternity benefit provisions under applicable laws.
3.	Women employees are to be provided with adequate transportation facilities of pick-up and drop at their residence, and employers are to provide safe and secure working conditions in a manner such that women employees are not disadvantaged in connection with their employment.
4.	Ensuring the prescribed sanitation requirements, including provision of well-lit areas in the passage to work facilities and closed-circuit television (CCTV) surveillance.
5.	Provision of women security guards at entry and exit points of workplace, and provisions of women wardens and supervisors where a factory provides boarding and lodging arrangements for female employees.
6.	Provision of 1/3 rd of the strength of supervisors, shift-in-charge, foreman or other supervisor staff to be women during night shifts.
7.	The period of rest or gap between 2 (two) shifts should not be less than 12 (twelve) consecutive hours.
8.	Compliance with requirements under the POSH Act.

Conclusion

Both the 2025 S&E Notification and 2025 Factories Notification provide streamlined compliance measures aimed at enhancing women participation in shops, commercial establishments as well as factories. While the 2025 S&E Notification streamlines conditions issued under the erstwhile notification in so far as prescriptive measures around prevention of sexual harassment at workplace are concerned, the 2025 Factories Notification provides more onerous conditions on employers of factories, particularly with respect to stipulations around minimum women supervisory staff and rest intervals. Taken together, these notifications certainly highlight the State Government's continued measures towards ensuring a more progressive approach at facilitating an enhanced and more equitable workforce participation, while ensuring the safety and dignity of women employees in night shifts in Madhya Pradesh.

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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