

Highlights of the Factories (Haryana Amendment) Act, 2018

The Government of Haryana vide notification dated July 20, 2020 has notified the Factories (Haryana Amendment) Act, 2018 (“**Amending Act**”) to further amend the Factories Act 1948 (“**Act**”) as in force in the state of Haryana with immediate effect. The Amending Act, *inter alia*, has increased threshold limit for applicability of the Act and has also increased the number of hours allowed to work overtime in any quarter.

The following are the changes brought in by the Amending Act:

(i) Increase in applicability threshold:

For a factory which is carried on with the aid of power, the Act will now apply in the state of Haryana if there are more than 20 (twenty) workers. Similarly, for a factory which is carried on without the aid of power, the Act will now apply if there are more than 40 (forty) workers. Earlier, this threshold was 10 (ten) and 20 (twenty) respectively.

(ii) Increase in overtime hours:

Under the Act, the State government has the power to exempt factories from following the provisions of fixed work hours to deal with an exceptional press of work, subject to certain conditions. One such condition is a cap on the number of overtime hours. The Act prescribes that a workman should not be allowed to work overtime for more than 7 (seven) days at a stretch and that the total number of overtime hours in a quarter should not exceed 75 (seventy five) hours. The Amending Act has increased the cap on overtime work hours to 115 (one hundred and fifteen) in a quarter.

(iii) Extending night shift for women workers:

The Act provides that women workers cannot be employed in a factory, except between the hours of 6:00 am 7:00 pm. The Act also provides that State government can vary the time limits. Under the Amending Act, women workers in the state of Haryana will now be allowed to work night shift between 7:00 pm to 6:00 am, provided that adequate safety and security measures are in put in place by factories employing them.

(iv) Power of courts to take cognizance of an offence:

Under the Act, a court can take cognizance of an offence only upon receiving a complaint by the Inspector (as provided under the Act), or by obtaining a prior sanction from the Inspector. The Amending Act has introduced a twin-criteria for courts to take cognizance of any offence committed. Under the Amending Act, a written complaint by an Inspector with a prior sanction in writing from the Chief Inspector is required for the court to take any action. This will ensure that only a valid or genuine complaint will be taken up by courts, thereby avoiding unwarranted litigation.

(v) Compounding of Offences and introduction of Schedule IV:

A new section, Section 106B has been included, wherein offences mentioned in Schedule IV, may be compounded, if committed for the first time. The fine for such offences do not exceed the amount prescribed under Section 92 of the Act,



which is INR 1,00,000 (Indian Rupees One Lakh only).

Schedule IV contains the list of compoundable offences, and it includes, *inter alia*, not maintaining cleanliness within the factory, not providing drinking water and canteen facilities, not providing urinals and latrines, not imposing any restriction on double employment, non-maintenance of register of workers etc. By introducing Schedule IV and the related provision for compounding of offences, the Amending Act aims to reduce any litigation which may arise out of minor non-compliances, and to provide relief to establishments committing an offence for first time offenders.

of the Act. With fewer compliance requirements, small scale industries will be able to increase work efficiency. Further, increasing overtime hours is a measure to meet increased production requirements, considering that the factories were not operational for months, owing to the lockdown. Further, the introduction of Schedule IV which includes the list of compoundable offences and relaxations to first time offenders will also bring about ease in compliance.

Conclusion

The changes brought in by the Amending Act aim to increase the efficiency of factories in a post lockdown environment. The increase in applicability threshold is a relief for smaller factories since it now exempts them from complying with the provisions

Disclaimer: This article is meant for informational purpose only and does not purport to be advice or opinion, legal or otherwise, whatsoever. Pioneer Legal does not intend to advertise its services through this article.