



Haryana Government Gazette

EXTRAORDINARY

Published by Authority

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No. 39–2023/Ext.] CHANDIGARH, TUESDAY, FEBRUARY 21, 2023 (PHALGUNA 2, 1944 SAKA)

HARYANA GOVERNMENT

LABOUR DEPARTMENT

Notification

The 21st February, 2023

No. 4490.— Whereas, the State Government of Haryana has already included IT, ITeS, Banking establishments, three star or above hotels, hundred per cent export oriented establishments, logistics and warehousing establishments in proviso to clause (iv) of sub rule (2) of Rule 15 of the Punjab Shop and Commercial Establishments Rules, 1958 by issuance of notifications from time to time in order to allow them employing women employees during night shifts i.e. from 08:00 PM to 06:00 AM subject to provisions of Section 28 of the said Act;

Now, in exercise of the powers conferred by sub section 3 of section 30 of the Punjab Shop and Commercial Establishments Act, 1958, and all other powers enabling him in this behalf the Governor of Haryana, in supersession of all earlier notifications in this regard, hereby notify for laying down certain conditions for employing women employees during night shifts with respect to their security, safety and to safeguard the interest of women employees in the aforementioned class of establishments registered under the said Act in the State of Haryana and apply for grant of such exemption under Section 28 of the said Act for employing women employees during night shifts in their respective establishments, which are as under :

1. No application for grant of exemption shall be entertained unless received by the Labour Commissioner or Chief Inspector of Shops of Haryana within one month prior to the date of commencement of the period in respect of which the exemption is prayed for.
2. Such exemption will be valid for one year from the date of order of exemption unless there is any change of security, transportation agreements and other details of occupier/director/manager.
3. It shall be the duty of the employer or other responsible person at the work places or institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution; statement of victim or prosecution of acts of sexual harassment by taking all steps required as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred as POSH Act). The employer/occupier must submit a copy of Annual Return which is to be submitted to the District Authority under the POSH Act and also to the Labour Commissioner, Haryana.
4. All employers or persons in charge of work place or establishment should take appropriate steps to prevent sexual harassment and provide a copy of annual report *vide* Rule 14 of POSH Rules, 2013 and ensure the implementation of POSH Act including:

- (i) Express prohibition of sexual harassment in any form such as unwelcome sexually determined behaviour either directly or by implication or advances or contact to gain contact or demand sexually favours or make sexually coloured remarks or showing pornography or any other unwelcome physical verbal or non-verbal contact of sexual nature;
 - (ii) The Rules or regulations shall be framed by the factory/establishment management relating to conduct and discipline prohibiting sexual harassment and provide for appropriate penalties in such rules against the offenders and also introduce amendments wherever necessary which are existing in the Standing Orders;
 - (iii) Provide appropriate working conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
5. In case of any criminal case the employer shall initiate appropriate action in accordance with the penal law without delay and also ensure that victims or witnesses are not victimised or discriminated while dealing with the complaints of sexual harassment and wherever necessary, at the request of the affected employee, shift or transfer the perpetrator, if circumstances so warrant. The employer shall take appropriate disciplinary action if such conduct amounts to misconduct in employment.
 6. The employer shall maintain a complaint redressal mechanism in the shop/establishment itself and the said mechanism should ensure time-bound treatment of complaints. Such mechanism should be at any rate to provide, when necessary a Complaint Committee, a special counsellor or other support services including the maintenance of confidentiality.
 7. Such Complaint Committee should be as prescribed in the Act.
 8. The female employees should be allowed to raise issues of sexual harassment in appropriate forum in writing or in electronic form or through a complaint box.
 9. The female employee should be made aware of their rights in particular by prominently notifying the guidelines on the subject.
 10. Wherever there is a harassment at the instance of a third party, either by an act or omission, the employer and person in charge of the shop/establishment should take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
 11. Each employer shall submit a declaration that they have obtained consent from each women employee to work during night shift 08:00 PM to 06:00 AM.
 12. The employer shall provide proper lighting not only inside the shop/establishment, but also surrounding of the shop/establishment and to all places where the female employees may move out of necessity in the course of such shift.
 13. Sufficient security guards shall be provided during the night shift.
 14. Sufficient number of work sheds shall be provided for the female employees to arrive in advance and also leave after the working hours.
 15. Separate canteen facility shall be provided, if number of female employees are more than 50, except in IT, ITeS.
 16. The employer shall provide transportation facility to the women employees from their residence and back (for the night shifts) and in case of buses, the vehicles shall also be equipped with CCTV cameras.
 17. During night shift not less than 1/3rd of total strength, including the supervisor or shift in-charge and other employees, shall be women, in case of logistics and warehousing establishments.
 18. The establishment/management shall provide appropriate medical facilities and also make available at any time of urgency by providing necessary telephone arrangement and where more than hundred women employees are employed in a shift, an arrangement of vehicle/tie-ups be kept ready to meet the emergent situation such as hospitalization, whenever there is a case of injury or incidental acts of harassment etc.
 19. Wherever the establishment/management provides boarding and lodging arrangements for the women employees, the same shall be kept exclusively for the women under the control of women wardens or supervisors.

20. There shall be not less than twelve consecutive hours of rest or gap between the last shifts and the night shift wherever a women employee is changed from day shift to night shift and so also from night shift to day shift.
21. In other respects, the provisions of the Punjab Shops and Commercial Establishments Act, 1958 and the rules of other statutory provisions with respect to the hours of work and the payment of Equal Remuneration Act and all other Labour Legislations shall be followed by the employer.
22. The female employees who work in night shifts and regular shifts shall have a meeting through their representative with principal employer once in eight weeks as grievance day and the employer shall try to comply all just and reasonable grievances.
23. The employer shall be at liberty to employ women employees as a whole or in part during night shift, provided, the above directions be complied with.
24. The employer shall include in the annual report to be sent to the Labour Commissioner Haryana about the details of employees engaged during night shifts.
25. The Management will ensure that the Security In-charge/Management have maintained the Boarding Register/Digitally signed computerized record consisting the Date, Name of the Model & Manufacturing of the Vehicle, Vehicle Registration No. Name of the Driver, Address of the Driver, Phone/Contract No. of the Driver and Time Pick up of the women employees from the establishment destination.
26. The above are subject to compliances of EPF, ESI and Haryana Labour Welfare Fund, Haryana.

DR. RAJA SEKHAR VUNDRU,
Additional Chief Secretary to Government Haryana,
Labour Department.