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*Analysing developments impacting business*

### TAMIL NADU IMPLEMENTS SHOPS AND ESTABLISHMENTS REGISTRATION REQUIREMENT FOR EMPLOYERS ALONG WITH WELFARE PROVISIONS: CHANGES EFFECTIVE FROM 2 JULY 2024

17 July 2024

The Government of Tamil Nadu has, by a notification dated 2 July 2024, implemented the Tamil Nadu Shops and Establishments (Amendment) Amendment Act, 2023 (2023 Amendment I), which in turn sought to implement the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 (2018 Amendment). Through the same notification, the state government has also implemented the Tamil Nadu Shops and Establishments (Amendment) Act, 2023 (2023 Amendment II), which introduces a few welfare provisions to be maintained by the employer. Both 2023 Amendment I and 2023 Amendment II shall be deemed to have amended the Tamil Nadu Shops and Establishments Act, 1947 (Principal Act) with effect from 2 July 2024. Amongst the notable changes is the requirement for employers to register their establishments in the prescribed form, and in this regard, corresponding rules have also been rolled out by the state government. In this short update, we discuss these amendments along with our observations.

#### **Registration of establishments**

The 2023 Amendment I, read with the 2018 Amendment, requires all employers with 10 or more workers to apply for registration of their establishment in the prescribed form. For existing establishments having 10 or more workers, the amendment requires the employer to furnish the details of the establishment in the prescribed form within a period of one year from the date of commencement of the 2018 Amendment (i.e., 2 July 2024), post which the Inspector will issue a registration certificate for the existing establishment.

Interestingly, the amendment requires the Inspector to register the establishment within 24 hours, failing which it will be deemed that the registration has been granted to the establishment.

The process of registration has been set out in the notification dated 2 July 2024 issued by the Government of Tamil Nadu to bring in amendments to the Tamil Nadu Shops and Establishments Rules, 1948 (Amended Rules). The said notification requires the application for registration to be made through a designated web portal of the Labour Department, Government of Tamil Nadu (details of the portal have not been specified in the notification). The same web portal will also allow existing establishments to intimate their details.

The formats for application (for the new establishment) and intimation (for the existing establishment) *inter alia* require the employer to provide details of the nature of constitution of the entity (society, company, partnership, etc.), the name of the 'employer' (defined under the Principal Act to be the person owning, or having charge of, the business of an establishment), and the number of employees ordinarily employed (which number should

cover contract workers, who are personnel of manpower services providers deployed at the premises of the service recipient).

#### ***Welfare provisions for persons employed in the establishment***

The 2023 Amendment II requires the employer to make sufficient arrangements for drinking water, washroom, rest room, lunchroom, and first aid facility. In respect of the first-aid facility, the Amended Rules require the employer to ensure that at least one first-aid box is available for every 150 persons employed.

#### ***Comment***

The notification bringing the above amendments in force puts to rest the ambiguity that has persisted thus far regarding the 2023 Amendment I being effective as law ever since the said amendment received the Governor's assent on 17 May 2023. This is because 2023 Amendment I does not include any language that would otherwise enable the state government to designate a date for the amendment to have the force of law, resulting in few local officials taking the position that the amendment came into force ever since it received the Governor's assent. Needless to mention, employers await clarity on the portal that will be designated by the state government for registration and intimation purposes. Also, it is to be seen whether the state government will insist on the 24 hours' timeline for registration of existing establishments too, just in line with the 2023 Amendment I that requires this timeline to be followed for fresh registration of a new establishment.

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