

DELHI SHOPS AND ESTABLISHMENTS (AMENDMENT) RULES, 2021

INTRODUCTION

Vide notification dated September 24, 2021 (“**Notification**”), the Labour Department, Government of NCT of Delhi has published the draft Delhi Shops and Establishments (Amendment) Rules, 2021 (“**Draft Rules**”) to further amend the Delhi Shops and Establishments Rules, 1954 (“**Principal Rules**”) and has sought objections and suggestions.

The Notification specifies that the Draft Rules will come into effect upon publication in the Delhi Gazette or after expiry of 15 days from the date of publication of the Draft Rules.

PROPOSED AMENDMENTS

The proposed amendments are as follows:

PROVISIONS	PRINCIPAL RULES	DRAFT RULES
Rule 3 ¹ <i>Substituted</i>	Within 90 days of commencement of the establishment, an occupier of the establishment was required to send a statement in Form A along with requisite fees for registration of establishment ² under the Delhi Shops and Establishments Act, 1954 (“ the Act ”).	The occupier of the establishment, within 90 days of the commencement of work of his establishment <u>shall apply online for the registration of the establishment</u> under the Act, on the Shop and Establishment portal of Labour Department, Government of NCT of Delhi (“ the Portal ”).
Rule 4 ³ <i>Substituted</i>	On receipt of the statement in Form A along with fees, and after being satisfied about the particulars, the Chief Inspector registers the establishment in Form B (Register of Establishment) and thereafter issues registration certificate in Form C to the occupier of establishment.	On submission of online application for registration of establishment on the Portal, the <u>registration certificate shall be generated online in Form C.</u>
Rule 6 ⁴ <i>Substituted</i>	The occupier was required to notify in Form D along with requisite fees about any change ⁵ in the information submitted in Form A within 15 days of any such change.	The occupier <u>shall notify online any change</u> in respect of any information under Section 5 (1) of the Act within 30 days on the Portal.
Schedule I ⁶ <i>Deleted</i>	Schedule I prescribed the fee for registration or renewal of an	<u>No fees prescribed in the Draft Rules.</u>

¹ Read with Section 5(1) of the Act.

² Schedule I of the Principal Rules.

³ Read with Section 5 (2) of the Act.

⁴ Read with Section 6 of the Act.

⁵ Schedule II of the Principal Rules.

⁶ Read with Rule 3 and Rule 5 of the Principal Rules.

	establishment.	
Schedule II ⁷ <i>Deleted</i>	Schedule II prescribed the fees for requesting changes in information of an establishment.	<u>No fees prescribed in the Draft Rules.</u>
Form G ⁸ <i>Revised</i>	Every employer was required to maintain a register of employment and remuneration in Form G where the opening and closing hours of an establishment were different.	<u>Form G has been revised</u> to include particulars of the employee, designation or category of work performed, total number of days worked, wages, deductions including provident fund and employees' state insurance, overtime, advances, details about leave, date of termination and reasons thereof, attendance register, etc., irrespective of the opening and closing hours of an establishment.
Form H and Form I ⁹ <i>Deleted</i>	Every employer was required to maintain register of employment and remuneration of employees in Form H and register of leave in Form I for establishment having uniform working hours.	<u>No such register prescribed in the Draft Rules.</u>

GML VIEWS

The proposed amendments are in rhythm with the need of the hour and primarily regarding online mode of compliances. With the changing times and scenario, where remote working has become the new normal, the proposed amendments are a welcome change. Further, the proposed amendments will ease the registration process and compliance requirements, saving time and hassles at the end of both employer and government. However, the proposed amendment *inter-alia* does not provide clarity about the following:

- | The Draft Rules are silent about the process of renewal of registration certificate as required under Rule 5 of the Principal Rules;
- | In view of deletion of Schedule I in the Principal Rules, there is no clarification in the Draft Rules whether fees for renewal would be applicable;
- | Rule 5 has not been amended in view of deletion of Schedule I; and
- | Though Form G has been revised and Forms H and I have been deleted, however, Rule 14 has not been amended.

⁷ Read with Rule 6 of the Principal Rules.

⁸ Read with Rule 14 (1) of the Principal Rules.

⁹ Read with Proviso to Rule 14 (1A) of the Principal Rules.

As per notification dated May 28, 2021, any company which wants to get registration under the Companies Act, 2013 and is also taking first time registration under the Act, then it shall approach 'SPICE+ Portal' of Ministry of Corporate Affairs for the same. Subsequent registration for different branch offices of the establishment/company under the Act may be taken directly on the Portal.

Therefore, for employers who wants to register for the first time under both the Act and the Companies Act, 2013, the appropriate registration portal is 'SPICE+ Portal' of Ministry of Corporate Affairs.

The Draft Rules are yet not final since the objection and suggestion, if any, had to be taken up for consideration, after the expiry of a period of 15 days from the date of publication of the Notification.

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