

Labor Law Relaxations for Startups

Startup Series #8

In order to catalyze the creation of employment opportunities through Startup ecosystem, Central Government decided to incentivize startups by provision of ease in regulatory compliance. In this connection, various incentives have been conceptualized under labor laws.

*In continuation to our '**Startup Series**', we would now look at the various labor law relaxations provided by some states to start-ups in **#8** of the Series.*

Labor Law Relaxations

Startups recognized by DPIIT can complete a self-declaration **within one year from the date of incorporation** in order to get an **exemption from labour inspection** (for 9 labor laws). Shram Suvidha Portal, a unified portal by GoI allows Startups to submit their self-certification under the applicable labor laws, as an alternative to physical inspection up to **5 years if no complaints are received..**

The Labor Laws covered are as follows :

- The Industrial Disputes Act, 1947;
- The Trade Unions Act, 1926;
- Building and Other Constructions Workers' Act, 1996
- The Industrial Employment Act, 1946
- The Inter-State Migrant Workmen Act, 1979
- The Payment of Gratuity Act, 1972
- The Contract Labour Act, 1970
- The Employees' Provident Funds Act, 1952
- The Employees' State Insurance Act, 1948.



For the first one year, of setting up of unit – Startup may not be inspected under any of the 6 Labor laws (BOCW Act, ISMW Act, Gratuity Act, Contract Labor Act, EPF Act and ESI Act) on self certification.

From second year onwards up to 5 years of setting up of unit – The startups can submit self-certified returns as an alternative to physical inspections under the 9 labor laws & 3 environment laws.

Environment Law Relaxations

Ministry of Environment, Forest & Climate Change (MoEF&CC) has published a list of **36 white category** industries – *Industries with the pollution index between 0-20*. Startups **falling under the “White category”** would be **able to self-certify** compliance in respect of 3 Environment Acts.

The Environment Acts covered under the scheme are as follows :

- The Water (Prevention & Control of Pollution) Act, 1974
- The Water (Prevention & Control of Pollution) Cess (Amendment) Act, 2003
- The Air (Prevention & Control of Pollution) Act, 1981



Eligibility: Though the company is termed as a startup, up to 10 years from the date of its incorporation, the eligibility to self-certify shall be granted only up to 5 years from the date of incorporation.

The procedure for conducting inspections **will be made simpler and will be on the lines of Start-up India Action Plan**. Start-ups shall be permitted to file self-certification in prescribed format for select government compliances. **No inspections** shall be conducted for a **period of seven years**. Start-ups will also be able to do the Self-Certification **through the mobile app/portal**.

An entity will be considered as Start-up to be eligible for this incentive if:

- If it is incorporated as a **private limited company** (as defined in the Companies Act, 2013) or **registered as a partnership firm** (registered under section 59 of the Partnership Act, 1932) or **a limited liability partnership** (under the Limited Liability Partnership Act, 2008) in Maharashtra; and
- **Up to seven years** from the date of its incorporation/ registration; however, in the case of
 - Start-ups in the biotechnology sector, the period shall be **up to ten years from** the date of its incorporation/registration
 - If its turnover for any of the financial years since incorporation/ registration has **not exceeded INR 25 crores**; and
 - If it is working **towards innovation, development or improvement of products** or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.
 - Provided that such entity **is not formed by splitting up, or reconstruction, of a business already in existence**.
 - Provided also that an entity shall cease to be a start-up if its turnover for the previous financial years has **exceeded INR 25 crore or it has completed 7 years** and **for biotechnology start-ups 10 years from** the date of incorporation/registration.

Startups meeting the eligibility criteria mentioned below can avail the listed non fiscal benefits

Eligibility Criteria	Benefits available
<ul style="list-style-type: none">• The company/entity is registered in the State under the Tamil Nadu Startup and innovaTN Mission (TANSIM); and• If it is incorporated as a private limited company (as defined in the Companies Act, 2013) or registered as a partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008) in India; and• Up to seven years from the date of its incorporation/ registration; however, in the case of startups in the biotechnology, Artificial Intelligence (AI) & Machine Learning (ML) sectors, the period shall be up to ten years from the date of its incorporation/ registration; and• If its turnover for any of the financial years since incorporation/ registration has not exceeded Rs. 25 crores.	<ul style="list-style-type: none">• Existing labour laws and technical regulations will be reviewed and simplified.• Self-certification to be accepted from startups where there are no technical regulations which need to be complied with, such as compliance with EPFO, ESIC, Minimum Wages, Bonus, Gratuity etc.• Third Party Certification alone will be required where technical regulations had to be complied with such as Boilers Act, Factories Act, the Tamil Nadu Lifts Act, etc.• TANSIM will engage with the Government in policy advocacy in emerging and disruptive areas as well as in regulatory dismantling for outdated regulations.• Suitable regulations/orders will be notified under applicable State laws and codes to enable faster exits for startups that shut down in tandem with Government of India notifications.



In order to promote Startups ventures with the **prime objective to create more employment** opportunities, many initiatives to simplify regulatory provisions, including compliance by **self-certification and filing of self-certified returns** have been conceptualized and rolled out.

Enterprises may apply and submit online **self-declaration through online portal of the department**, "Labour Department Management System" (LDMS).

Once opted for the scheme, the same shall **be valid for 5 years**, provided that entrepreneur files annual return. Facility of filing **single online return** under Labour Laws is **also provided** on this portal.

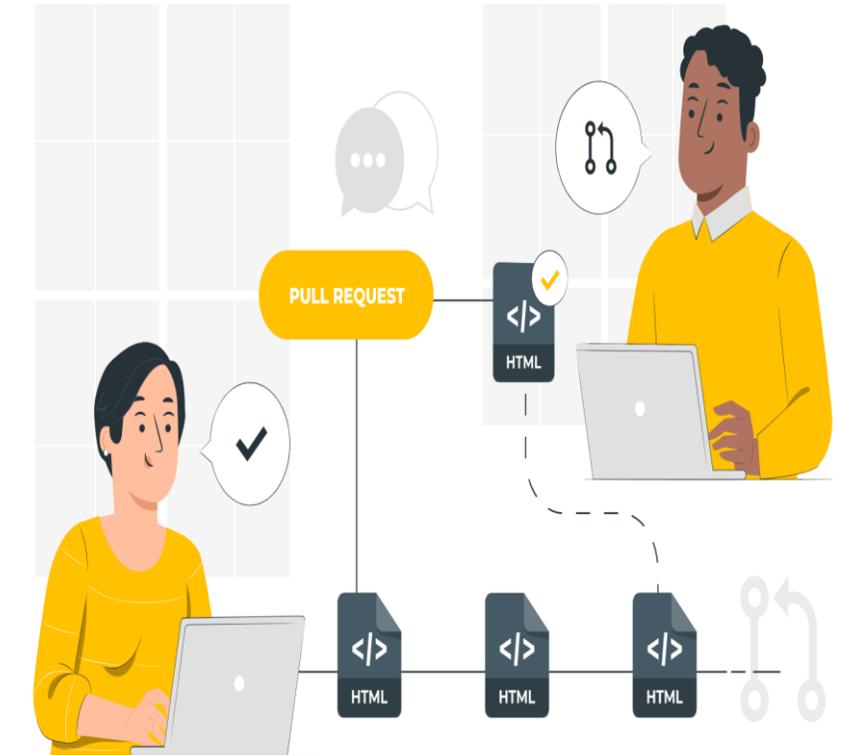
Andhra Pradesh

The **IT/ITeS industry** are permitted to file self-certifications for the following:

- The Factories Act, 1948
- The Maternity Benefit Act, 1961
- The Contract Labour (Regulations & Abolition) Act, 1970
- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- AP Shops & Establishments Act, 1988

Others

Major startups are set up in cities like **Delhi, Bangalore, etc.** However, there are no State specific relaxations regarding the labor law available for these states.



Our comments: Though some of the states have introduced self-certification route for start-ups, but in practice there are quiet of few challenges faced.

Stay tuned for more updates on Startups!

In case you have missed the previous alerts, click on the hyperlinks to refer the same.



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Labor law relaxations



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Other regulatory provisions / benefits

THANK YOU

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