



COVID-19, LOCK-DOWN AND MAJOR INDUSTRY CONCERNS

In connection with the nation-wide lock-down to prevent the spread of COVID-19, we refer to the following:

1. The various guidelines, notifications and clarifications setting out activities that are prohibited and exemptions thereto from 24 March 2020 up to 14 April 2020, consolidated and published on 14 April 2020 by the Central Government (for convenience referred to as the “**First Guidelines**”).
2. The revised consolidated guidelines issued by the Central Government on 15 April 2020 and notifications and clarifications in connection thereto (for convenience referred to as the “**New Guidelines**”) upon extension of the lock-down till 3 May 2020.

Due to the various interpretations being adopted of the New Guidelines, the industry faces several concerns, which are tabulated below:

SR. No	Concern/ Issue	Rationale and References	Request for Clarification
1.	New Guidelines do not curtail exemptions already provided, unless the exempted activities fall within a containment zone.	<p>The New Guidelines permit “select additional activities” in order to reduce difficulties faced by the general public (<i>Ref: para 3(i) of the New Guidelines</i>).</p> <p>The New Guidelines do not supersede the First Guidelines but are required to be read in conjunction with the First Guidelines.</p> <p>In some sections of the enforcement, the New Guidelines has been understood to mean that the industries that were earlier permitted to operate are required to apply for and obtain permission afresh. In some parts of the country, the authorities have not stated anything in this regard. But this leaves a scope for interpretation and possible harassment at the Field level at a later date. The industries apprehend that some over enthusiastic authorities might initiate action for continuing with the operations without obtaining fresh permissions.</p>	<i>Please clarify that the New Guidelines provide for additional permitted activities. No activity, already permitted under the First Guidelines have been curtailed, unless such activity is being conducted within a notified containment zone</i>
2.	No separate permission required from	Some authorities of the view that the factories that were permitted to operate prior to the issuance of the New Guidelines on 15 April 2020 are also required to take fresh	<i>Please clarify that the industries that were permitted to operate</i>

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	<p>authorities for industries already permitted to operate prior to 15 April 2020</p>	<p>permission. In some places, the authorities stipulate that a written permission is required before resuming manufacturing operations.</p> <p>The authorities are, generally, engaged in Covid-19 containments measures and the applications for resumption of manufacturing operations are not given any priority. These permissions are normally delayed as the authorities are overwhelmed with the number of applications filed with them.</p> <p>Before resuming the manufacturing operations, the manufacturers are required to take several steps such as assembling the workmen, arranging for raw materials etc., Delay in granting permission results in avoidable loss to the manufacturers as all the steps taken by them to start their manufacturing operations on a particular day became futile and they have to restart the whole process again.</p>	<p><i>even prior to the New Guidelines do not require any fresh permission to continue operations.</i></p>
3.	<p>State governments/ local authorities are prohibiting the sale of “non-essential” goods from shops and stores that are permitted to remain open.</p>	<p>The First Guidelines prohibited “commercial and private <u>establishments</u>” and set out the exemptions to such prohibition. (Ref: Para 4 of the First Guidelines). It did not prohibit any sale transactions in permitted establishments.</p> <p>The New Guidelines state that “All industrial and commercial <u>activities</u> other than those specifically permitted)” (Ref: para 1(vii) of the New Guidelines).</p> <p>The New Guidelines permit:</p> <ul style="list-style-type: none"> - transportation of all goods, whether essential or non-essential is permitted (Ref: para 12 read with the clarification dated 29 March 2020 and 12 April 2020 issued by the Home Secretary, Government of India) - Supply of “essential goods” has been permitted as under: (Ref: para 13 of the New Guidelines) <ul style="list-style-type: none"> ▪ stores selling groceries and items of daily use are permitted to operate subject to maintaining strict social distancing norms (Ref: para 13 (ii) of the 	<p><i>Please clarify that any and all goods that are permitted to be manufactured in terms of the Order dated 15.04.2020 can be sold in the establishments, shops and stores that are permitted to remain open in the non-containment zones.</i></p>

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		<p><i>New Guidelines).</i></p> <ul style="list-style-type: none"> ▪ large brick and mortar stores are also permitted to remain open subject to maintaining strict social distancing norms (<i>Ref: para 13(i) of the New Guidelines</i>) - warehousing is permitted (<i>Ref: para 14(vii) of the New Guidelines read with para 3(vii) of the clarification dated 12 April 2020 issued by the Home Secretary, Government of India</i>) <p>By reason of the misunderstanding at the field level, the government on 29 March 2020 clarified that the term ‘groceries’ would include several items such as battery cells, chargers etc.,</p> <p>While the New Guidelines permit warehousing and free movement of all goods without distinction as to essential or non-essential, due to the words used in para 1(vii) of the New Guidelines read with the heading of para 13, authorities are mis-interpreting the New Guidelines and prohibiting the sale of any goods deemed “non-essential” by them even if such goods are ordinarily sold in stores that are exempt under the lock-down guidelines.</p> <p>The basic idea in allowing manufacture of goods, warehousing and movement, is to cater to the demands of the consumers. The purpose of allowing manufacture and movement will be defeated if the kirana stores are not allowed to sell all the items available in the shops. As they are all required to adhere to the social distancing norms, it should be clarified that the kirana shops are permitted to sell all items required by the consumers.</p>	
4.	Request for exemption to operation of industrial establishments irrespective of their	<p>Industries operating in rural areas (i.e outside the limits of municipal corporations and ministries) have been permitted to operate. (<i>Ref: para 15(i) of the New Guidelines</i>)</p> <p>Standard operating procedures (SOPS) for social distancing in permitted establishments (<i>Ref: Annexure II to the New Guidelines</i>). It has been made very clear that the</p>	<p><i>Please extend the exemption to the operation of all manufacturing and other industrial establishments irrespective of their location,</i></p>

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	location (unless situated within a notified containment zone)	<p>additional permitted activities are not allowed in any area that is identified as containment zones.</p> <p>There is a confusion in the field regarding the understanding of 'rural area'. This is because of the common understanding of the 'urban' and 'rural' areas. The villages in which agricultural operations are being carried out is being considered as 'rural' area and the places in which the factories are situated are being treated as 'urban' areas. In many places, though the factory was established outside the city limits, after a factory has started functioning, the area developed and at present the authorities are considering them as 'urban' area as opposed to the 'rural' area.</p> <p>The restriction on industries that are not in containment zones does not provide any additional benefit in preventing the spread of COVID-19 but results in huge loss to the owners and operators of these industries.</p> <p>To avoid this ambiguity, and without compromising on the safety measures, it may be provided that all the industries situated outside the non-containment zones are permitted to resume operations.</p>	<p><i>subject to strict compliance with prescribed norms for social distancing as long they are not in containment zones.</i></p>
5.	Request for exemption to permit operations of the entire value chain in green zones .	<p>Kirana stores have been permitted to remain open for sale of food, groceries and hygiene items for daily use (<i>Ref: Para 13(ii) of the New Guidelines</i>)</p> <p>During the initial phase of the lock-down, all the small shop owners have closed their establishments in many parts of the country irrespective of whether they deal in essential goods also or not mainly by reason of the understanding that they do not qualify the common understanding of 'Kirana' shops which are predominantly grocers.</p> <p>In many small towns and villages, these small shops provide seamless supply of goods and necessities for the consumers. This has also resulted in loss of livelihood to these self-employed shop owners.</p> <p>The re-start of the commercial and industrial operations encompassing the entire value</p>	<p><i>Please allow all the industrial and commercial operations encompassing the entire value chain other than in containment zones.</i></p>

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		chain may be allowed in the Green Zones.	
6.	Request for clarification that penal provisions under the Disaster Management Act, the Epidemic Diseases Act and the Indian Penal Code shall not be invoked for permitted activities and establishments following prescribed SOPs	<p>Annexure III of the New Guidelines, as well as several State government orders refer to stringent penal provisions under the Disaster Management Act, 2005, the Epidemics Act, 1897 and the Indian Penal Code, 1860 for violation of the government orders in connection with the lock-down.</p> <p>This has instilled fear in the owners of permitted establishments that such stringent penal provisions may be invoked if any person in such permitted establishment contracts COVID-19 despite all precautionary measures having been taken by the establishment. Consequently, even operators of permitted establishments are hesitant to resume operations, resulting in disruption in goods supply, scarcity of availability to consumers and consequent loss to the economy.</p> <p>One of the reason for fear is that if any employee engaged in the exempted activity is infected with virus, it may be treated as the result of a failure on the part of the employer in following the guidelines and penal measures may be invoked. While the employers have deployed all measures such as hand sanitisers, masks, infrared temperature guns etc., it will be difficult to identify people with asymptomatic patients. Considering that resumption of work is under a “new normal” condition any operation undertaken is fraught with risks. It would be unfair and unjust to expose the employers to penal measures for on fault on their part.</p>	<i>Please clarify that the industrial and other permitted operations, once approved by the local administrations, no penal provisions under the Disaster Management Act or any other Act, will not be applicable. The authorities may undertake surprise check and suggest improvement measures, if required.</i>
7.	Request for clarification that the requirement of “no overlap of shift timings” will not apply to manufacturing units where overlap is necessary for handover	<p>The New Guidelines mandates that there shall be no overlap of shifts in manufacturing establishments (Ref: item no. 14 in Annexure I). They also state that work spaces shall have a gap of one hour between shifts (Ref: Item 8, Annexure I to the New Guidelines)</p> <p>The shift-timing is given in the context of work spaces (not manufacturing operations). However, the field authorities might apply the same to the factory operations also. The reason being the shift-timing is a normal parlance used in connection with the factory operations. The shift-timings and any overlap are covered by the permissions given by the factories inspectorate.</p>	<i>Please clarify that the requirement of “no overlap of shifts in manufacturing facilities” and “one hour gap between shift timings” is not applicable to manufacturing units where overlap of shift timings is necessary for instance for handover of running machines.</i>

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		Such a misunderstanding will cause inconvenience in the manufacturing operations, particularly in the continuous manufacturing operations.	
8.	Request for clarification that the requirement of maintaining 6 feet distance between seating at job sites, is not applicable to manufacturing units that require personnel to be deployed at closer intervals at the manufacturing lines.	<p>The New Guidelines require “seating at least 6 feet away from others on job sites” (Ref: <i>Item 6 in Annexure II to the New Guidelines</i>)</p> <p>This requirement is for work spaces that have seating arrangements such as offices but would not apply to manufacturing establishments that having personnel deployed (as required) to ensure undisturbed manufacturing.</p>	<i>Please clarify that the requirement for 6 feet distance in seating arrangement is applicable only to work spaces such as offices and is not applicable to manufacturing establishments.</i>
9.	Clarification required that workmen travelling to permitted establishments are allowed to use private transport subject to complying with prescribed norms.	<p>The New Guidelines allow movement of persons for procurement of essential commodities by their own vehicle subject to (i) only one person using a two wheeler (ii) the driver and a passenger in the back-seat for four wheelers. (Ref: <i>para 17(i) of the New Guidelines</i>).</p> <p>Annexure II to the New Guidelines specifies that special transportation shall be arranged for workers coming from outside areas with 30-40% passenger capacity being occupied.</p> <p>Where workmen for exempted have their own private transport, they should be allowed to use the same subject to the guidelines specified in para 17(i) of the New Guidelines. This will further the cause of social distancing.</p>	<p><i>Please clarify that workmen for permitted establishments having private transport may use the same to commute to the factory – subject to the following:</i></p> <ul style="list-style-type: none"> <i>a. Only one person to ride a two-wheeler</i> <i>b. The driver and one passenger in the back seat for four wheelers.</i>
10.	Clarification required on requirement to obtain medical insurance.	The New Guidelines stipulates that medical insurance is required to be taken for the employees (Ref: <i>Serial No.5 of Annexure II</i>). If the existing industries who have already provided medical facilities/ESI/insurance are required to take additional medical insurance, it will be an additional costs to the employers without any real benefit to the	<i>Please clarify that the necessity to take medical insurance is not required in respect of the units covered by ESI, existing Group</i>

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		employees.	<i>Medical Insurances or the employment polices/LTA agreements covering medical expenses of the employees.</i>
11.	Standard Operating Procedure required for re-start of the industry / commercial establishment in the event any employee is tested positive for the virus.	It is possible that due to the number of people contracting this virus are asymptomatic that someone who worked in a factory might be testing positive for the virus at a later date. In such an event, the government may prescribe an SOP for re-start of the operations with a short-period of suspending the operations. This SOP may also prescribe procedure for sanitising the factory/shop.	<i>Please prescribe SOP for re-start of the factory / shop after sanitising the work place. The suspension of the operation may be kept at a minimum possible.</i>