

Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2018

1. Scope and Objectives

1.1 The Industrial Employment (Standing Orders) Act, 1946 came into force on 23rd April, 1946 and extends to the whole of India. Though the Act applies to every industrial units/undertaking/establishments wherein 100 or more workers were employed on any day of the preceding 12 months. It empowers the appropriate Governments to extend the provisions of this Act to the establishments employing less than 100 workers after giving not less than two months' notice, of its intention to do so, in the official gazette. The Act, however, does not apply to the workmen who are governed by the Fundamental and Supplementary Rules, Civil Service Temporary Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railways Establishments Code or any other rules and regulations that may be notified in this behalf by the appropriate Government.

1.2 The main objectives of the Act, besides maintaining harmonious relationship between the employers and the employees, are to regulate the conditions of recruitment, discharge, disciplinary action, leave, holidays, etc. of the workers employed in industrial units/undertaking/establishments.

1.3 By virtue of the definition of "Appropriate Government" under Section 2 (b) of the Act, the following categories of industrial establishments fall within the purview of the Central Government for the purpose of the Act and the rest under the jurisdiction of the respective State Governments:

- (i) Railways;
- (ii) Mines and Quarries;
- (iii) Oil fields;
- (iv) Industrial Establishments in Major Ports;
- (v) Establishments under the control of the Central Government such as Central Public Sector Companies and Corporations; and
- (vi) Industrial Establishments run departmentally by the Central Government, e.g., Post and Telegraph Workshops, Government of India Presses, Mints, Central Public Works Departments, etc.

2. Main Provisions

The main provisions of the Act relate to:-

- (i) procedure for submission of draft Standing Orders;
- (ii) conditions for certification;
- (iii) date of operation and display of these Orders;
- (iv) procedure for modification; and
- (v) Machinery for the implementation of the Act.

3. Procedure for Certification of the Standing Orders

3.1 Section 3 of the Act provides that within 6 months from the date on which the Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer, 5 copies of the draft Standing Orders proposed by him for adoption in his industrial establishment. It further provides that provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the establishment, and where Model Standing Orders have been prescribed, shall be, as far as practicable, in conformity with such model. Therefore, the draft Standing Orders should normally provide for the following matters:

- (i) Classification of Workmen, i.e., Permanent, Temporary, Apprentices, Probationers or Badlis;
- (ii) Manner of intimating to workmen the periods and hours of work, holidays, pay days and wage rates;
- (iii) Shift working;
- (iv) Attendance and late coming;
- (v) Conditions of procedure in applying for and the authority, which may grant leave and holidays;
- (vi) Requirement to enter premises by certain gates and liability to search;
- (vii) Closing and re-opening of sections of the industrial establishment and temporary stoppages of work, and the rights and liabilities of the employer and workmen arising there from;
- (viii) Termination of employment and the notice thereof to be given by employer to workmen;
- (ix) Suspension or dismissal for misconduct and acts or omissions which constitute misconduct;
- (x) Means of redressal for workmen against unfair treatment or wrongful action by the employer or his agents or servants; and
- (xi) Any other matter, which may be prescribed from time to time.

Besides, the Act as amended in 1982 also provides for payment of subsistence allowance to the workmen who are kept under suspension pending domestic enquiry.

3.2 On receipt of the draft, the Certifying Officer shall initiate to certify the Standing Orders in accordance with the procedure laid down in Section 5 of the Act which, *inter-alia*, provides that all the registered trade unions, and in the absence of the registered trade unions, five elected representatives of the workmen, shall be given an opportunity to raise objections to the proposed draft Standing Orders. The Certifying Officer is also required to ensure that provision is made in the Standing Orders for every matter set out in the Schedule applicable to the industrial establishment and the Standing Orders are in conformity with the provisions of the Act. For this purpose, the Certifying Officer shall adjudicate upon the fairness or reasonableness of the Standing Orders and shall then certify them and send, authenticated copies together with the orders referred to above, to the parties within 7 days from the date of his orders. The Certified Standing Orders become enforceable on the expiry of 30 days from the date on which the authenticated copies of the same are sent to the parties provided no appeal has been preferred against them. Certifying Officers and appellate authorities have been vested with powers of Civil Courts for the purpose of receiving evidence, administering oath, enforcing the attendance of witnesses and compelling the discovery and production of documents and are deemed to be civil courts within the meaning of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2) of 1974.

4. Modification of Standing Orders

4.1 Under Section 10 of the Act the provision exists for modification of the Certified Standing Orders. The Standing Orders can be modified even before expiry of the prescribed time limit of 30 days provided both the management and its workmen agree for it. An employer or workmen or trade union or other representative body of workmen desiring the change can apply for modification of standing orders to the Certifying Officer. The procedure for submission of application for modification is the same as for initial certification under the Act. When it is proposed to make modifications by agreement between the employer and workmen, a certified copy of that agreement has also to be filed along with application for modification.

5. Enforcement of the Act

5.1 The Act makes provision for appointment of Inspectors for its strict enforcement. The following offences are punishable under Section 13 of the Act and the Central Industrial Relations Machinery is to take suitable action wherever infringements of the provisions come to their notice:

- (i) Failures on the part of an employer to submit draft Standing Orders as per the requirement under Section 3 of the Act.
- (ii) Modification by employer of the Certified Standing Orders otherwise than in accordance with the prescribed procedure, and
- (iii) Any action of the employer, which is in contravention of the provisions of the Certified Standing Orders.

6. Progress of Certification/Modification of Standing Orders during 2017 and 2018

6.1 The details of establishments covered under Industrial Employment (Standing Orders) Act, 1946 along with the progress of Certification/Modification of Standing Orders during the years 2017 and 2018 are given in **Table-I**. It reveals that the percentage of establishments having certified Standing Orders in respect of all or a group of employees at the end of year out of the total number of establishments covered under the Act has increased from 23.35 percent in 2017 to 28.05 per cent in 2018. Similarly, the proportion of workers employed in these establishments out of total number of workers employed in the establishments covered under the Act also increased from 41.12 percent to 49.20 percent.

7. State-wise progress of Certification of Standing Orders during 2018

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2018 are presented in **Table-II**. During 2018, a total of 1,03,956 establishments employing 88 lakh workers were covered under the purview of Industrial Establishments (Standing Orders) Act, 1946 in all the States/Union Territories furnishing returns. In beginning of the year 2018; 28,238 (27.16% of total establishments) establishments employing 41.92 lakh (47.54% of total workers) workers were having certified standing orders in all or only group of employees in all the States/Union Territories. During 2018; 1095 applications

for certification of Standing Order were received, however, 1952 number of application of establishments were already pending with concerned authorities at the beginning of year. During 2018; 1196 applications were disposed off and at the end of 2018; 1800 applications were still pending and 29,164 (28.05%) establishments employing 43,38,946 (49.20%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Out of the total 1952 number of applications pending at the commencement of the year, the maximum 333(17.06%) applications were in State of Uttar Pradesh followed by Karnataka 288 (14.75%) ,Himachal Pradesh 258 (13.22%), Uttarakhand 228 (11.68%) and Assam 226 (11.58%). Out of the total 1095 applications for certification received during the year 2018 maximum number i.e. 335 (30.59%) were received in the state of Tamil Nadu followed by Uttar Pradesh 325 (29.68%) and Haryana 79 (7.21%). Out of total 1196 applications during 2018, the maximum applications i.e. 324 (27.09%) were disposed off by the State of Tamil Nadu followed by Uttar Pradesh 304 (25.42), Karnataka 256 (21.40%). At the end of the year 2018, the State of Tamil Nadu had the maximum number of establishments having Certified Standing Orders i.e. 10,071 (34.53%) followed by Uttar Pradesh 6,341 (21.74%) and Haryana 1,998 (6.85%). The number of employees covered were highest in Tamil Nadu i.e. 10,92,146 (25.17%) followed by Assam 7,18,657(16.56%) and Uttar Pradesh 5,75,340 (13.26%).

8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2018

8.1 **Table – III** reveals that during 2018, out of 511 applications (366 from previous year and 145 received during 2018) for modification of Standing Orders, 363 applications were disposed off. The maximum number of 256 applications was disposed off by Karnataka followed by Tamil Nadu (60 applications). Out of 34 appeals (14 from previous year and 20 appeals received during the current year) against the orders of Certifying Officers, 4 appeals one each in the State of Goa, Karnataka, Telangana and Uttarakhand were disposed off during the year 2018.

9. Limitations of Statistics

9.1 The report is based on the information received from 18 States and 4 Union Territories, whereas the Act extends to whole of India. There are States/UTs/Agencies, like Jharkhand, Maharashtra, West Bengal, Andaman & Nicobar Island and C.L.C. (Central) which have not submitted the annual returns. Similarly, there are States/UT's viz. Nagaland, Sikkim and Union Territories of Dadra & Nagar Haveli and Daman & Diu, where the Act has not been enforced. As regard the information pertaining to Chhattisgarh and Madhya Pradesh State it may be treated as 'NIL' because the Industrial Employment (Standing Orders) Act, 1946 is not in vogue in the State, as the State Act, "the Industrial Employment (Standing Orders) Act, 1961" is enforced and applicable there. States of Manipur, Mizoram, Arunachal Pradesh and UT Lakshadweep submitted '-' Nil data in annual returns. In view of this, the report may not be representative of all India situations. Similarly, all-India figures in the report may not be comparable over the years as the responding States/UT's vary from year to year.

Table – I

Progress of Certification / Modification of Standing Orders during the years 2017 and 2018

Item	Sphere	Year		Percentage Increase or Decrease
		2017	2018	
1	2	3	4	5
1 No. of Establishments covered under the Act	State	91827	103956	+13.21
2 No. of workers employed in the Establishments covered under the Act	State	8552741	8819325	+3.12
3 No. of Establishments having Certified Standing Orders at the end of the year	State	21440 (23.35)	29164 (28.05)	+36.03
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	3516532 (41.12)	4338946 (49.20)	+23.39
5 No. of applications pending for certification at the end of the year	State	1692	1800	+6.38
6 No. of applications pending for modification of Standing Orders at the end of the year	State	395	148	-62.53
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	15	30	100.00

Note. 1. Figures in brackets against items 3 & 4 indicate percentages to corresponding figures against items 1 & 2 respectively.

2. Percentage increase or decrease in case of Central Sphere totals could not be worked out due to the non-availability of information for the years 2017 and 2018.

Table – II

State-wise progress of Certification of Standing Orders during 2018

State/Union Territory	Establishments covered under the Industrial Employment (Standing Orders) Act		Establishments having Certified Standing Orders in respect of all or only a group of employees at the beginning of the year		Number of applications for certification either for all or any group of employees in respect of establishments (i) which had Standing Orders only for a group or groups of employees (ii) which had no certified Standing Orders				Establishments having certified Standing Orders in respect of all or only a group of employees at the end of the year	
	Number Of establishment	Number of employees covered	Number	Number of employees covered	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year	Number	Number of employees covered
1	2	3	4	5	6	7	8	9	10	11
1 Andhra Pradesh	1581	239688	1102	199974	12 (0.61)	18 (1.64)	18 (1.51)	12	949 (3.25)	161891 (3.73)
2 Assam	2434	801063	1565	717040	226 (11.58)	30 (2.74)	61 (5.10)	195	1626 (5.58)	718657 (16.56)
3 Bihar	42	5948	40	5908	- (0.00)	- (0.00)	- (0.00)	-	13 (0.04)	1336 (0.03)
4 Goa	2005	119102	242	26243	66 (3.38)	3 (0.27)	1 (0.08)	68	244 (0.84)	27077 (0.62)
5 Gujarat	24621	1311633	164	24002	87 (4.46)	2 (0.18)	2 (0.17)	87	138 (0.47)	22912 (0.53)
6 Haryana	6525	818281	1941	297736	29 (1.49)	79 (7.21)	57 (4.77)	-	1998 (6.85)	319638 (7.37)
7 Himachal Pradesh	2487	303380	331	41298	258 (13.22)	37 (3.38)	13 (1.09)	282	344 (1.18)	42728 (0.98)
8 Jammu &	84	16469	80	16102	4 (0.20)	6 (0.55)	6 (0.50)	4	80 (0.27)	16102 (0.37)
9 Karnataka	1247	706278	1279	316615	288 (14.75)	57 (5.21)	256 (21.40)	89	1535 (5.26)	397833 (9.17)
10 Kerala	2143	283032	874	97719	52 (2.66)	20 (1.83)	9 (0.75)	63	853 (2.92)	96693 (2.23)
11 Meghalaya	5	675	5	675	- (0.00)	- (0.00)	- (0.00)	-	5 (0.02)	675 (0.02)
12 Orissa	630	134006	302	86085	104 (5.33)	36 (3.29)	33 (2.76)	107	335 (1.15)	90997 (2.10)
13 Punjab	11843	592500	1727	291725	115 (5.89)	49 (4.47)	39 (3.26)	125	1756 (6.02)	297149 (6.85)
14 Rajasthan	5128	689412	1143	251402	31 (1.59)	57 (5.21)	38 (3.18)	50	1181 (4.05)	261128 (6.02)
15 Tamil Nadu	28417	1770503	9747	1065060	25 (1.28)	335 (30.59)	324 (27.09)	36	10071 (34.53)	1092146 (25.17)
16 Telangana	1892	151754	314	48190	50 (2.56)	4 (0.37)	5 (0.42)	49	319 (1.09)	49096 (1.13)
17 Tripura	162	19500	162	16500	- (0.00)	- (0.00)	- (0.00)	-	162 (0.56)	19500 (0.45)
18 Uttar Pradesh	10448	664887	6037	554865	333 (17.06)	325 (29.68)	304 (25.42)	354	6341 (21.74)	575340 (13.26)
19 Uttarakhand	1214	98036	924	86061	228 (11.68)	28 (2.56)	22 (1.84)	234	946 (3.24)	97283 (2.24)
20 Chandigarh	230	14536	66	8315	- (0.00)	- (0.00)	- (0.00)	-	67 (0.23)	8395 (0.19)
21 Delhi	@	@	15	2111	- (0.00)	5 (0.46)	5 (0.42)	-	20 (0.07)	2634 (0.06)
22 Puducherry	818	78642	178	38836	44 (2.25)	4 (0.37)	3 (0.25)	45	181 (0.62)	39736 (0.92)
Total	103956	8819325	28238	4192462	1952	1095	1196	1800	29164	4338946
			(27.16)	(47.54)	(100.00)	(100.00)	(100.00)		(28.05)	(49.20)

NOTE: 1. Figures in brackets are percentages to total.

- Nil.

@ Data not reported.

2. Percentages in brackets of Grand Total in cols. 4 and 5 as well as cols. 10 and 11 are with reference to cols. 2 and 3. Figures under Col.6 are not strictly comparable over the years as the responding States/UTs vary year to year.

Table – III

State-wise progress of Modification of Standing Orders and disposal of appeals during 2018

State/Union Territory	Number of applications for modification of Standing Orders				Number of appeals against the orders of Certifying Officers			
	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year
1	2	3	4	5	6	7	8	9
1 Andhra Pradesh	-	5	5	-	-	-	-	-
2 Assam	-	-	-	-	-	-	-	-
3 Bihar	-	-	-	-	-	-	-	-
4 Goa	-	1	-	1	-	2	1	1
5 Gujarat	2	2	4	-	-	-	-	-
6 Haryana	11	-	11	-	-	-	-	-
7 Himachal Pradesh	-	2	1	1	-	-	-	-
8 Jammu & Kashmir	1	-	-	1	-	-	-	-
9 Karnataka	288	57	256	89	2	15	1	16
10 Kerala	31	-	-	31	2	-	-	2
11 Meghalaya	-	-	-	-	-	-	-	-
12 Mizoram	-	-	-	-	-	-	-	-
13 Orissa	3	1	2	2	-	-	-	-
14 Punjab	-	2	2	-	-	-	-	-
15 Rajasthan	2	8	9	1	4	1	-	5
16 Tamil Nadu	9	53	60	2	3	-	-	3
17 Telangana	8	5	5	8	1	-	1	-
18 Tripura	-	-	-	-	-	-	-	-
19 Uttarakhand	11	6	6	11	2	2	1	3
20 Chandigarh	-	-	-	-	-	-	-	-
21 NCT Delhi	-	-	-	-	-	-	-	-
22 Puducherry	-	3	2	1	-	-	-	-
Total	366	145	363	148	14	20	4	30

-= Nil

NOTE: Figures under Col. 2 and Col. 6 are not strictly comparable over the years as the responding States/UTs vary year to year