

Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2009

1. Scope and Objectives

1.1 The Industrial Employment (Standing Orders) Act, 1946 came into force on April 23, 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 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 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 or 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 therefrom;
- (viii) Termination of employment and the notice thereof to be given by employer to workmen;
- (ix) Suspension or dismissal for misconduct and acts of omission 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. The employer or the workmen desiring the change can make application for modification 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 18 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. Sphere-wise progress of Certification/Modification of Standing Orders during 2008 and 2009

6.1 Sphere-wise details of establishments covered under Industrial Employment (Standing Orders) Act, 1946 along with the progress of Certification/Modification of Standing Orders during the years 2008 and 2009 are given in Table – I. It reveals that in the State Sphere, 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 declined from 33.22 per cent in 2008 to 22.20 per cent in 2009. Similarly, the number of workers employed in these establishments out of total number of workers employed in the establishments covered under the Act also declined from 50.19 per cent to 34.23 per cent.

7. State-wise progress of Certification of Standing Orders during 2009

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2009 are presented in Table-II. During this year, 29,236 establishments, employing 30,52,456 workers were under the purview of the Industrial Employment (Standing Orders) Act, 1946 in the States which submitted the returns. Out of these, 6,068 (20.76%) establishments employing 9,85,693 (32.29%) workers were having Certified Standing Orders in respect of all or only a group of employees. The applications of 1,487 establishments were pending for certification of Standing Orders with the concerned Authorities at the beginning of 2009. During the year 434 applications were received and 452 applications were disposed of. At the end of the year 1,469 applications were pending with the concerned Certifying Officers. At the end of the year 6,491 (22.20%) establishments employing 10,44,955 (34.23%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Table – II shows that in the State of Punjab maximum number of applications for certification i.e. 773 (51.98 per cent) were pending at the commencement of the year followed by Himachal Pradesh 199 (13.38 per cent), Uttarakhand 121 (8.14 per cent), Orison 90 (6.05 per cent) and Haryana 81 (5.45 per cent). During the year 2009 maximum number of applications for certification i.e. 111 (25.58 per cent) were received in the state of Uttarakhand followed by Punjab 76 (17.51 per cent) and Haryana 75 (17.28 per cent). Out of these applications the maximum i.e. 118 (26.11 per cent) were disposed of in the State of Haryana followed by Punjab 97 (21.46 per cent) and Uttarakhand 94 (20.80 per cent). At the end of the year, 2009 the state of Punjab had the maximum number of establishments having Certified Standing Orders i.e. 1,485 (22.88 per cent) followed by Haryana 1,434 (22.09 per cent), Andhra Pradesh 1,012 (15.59 per cent), Kerala 717 (11.05 per cent) and Maharashtra 447 (6.89 per cent). However, the number of employees covered were highest in Punjab i.e. 2,53,759 (24.28 per cent) followed by Haryana 2,22,967 (21.34 per cent), Andhra Pradesh 1,69,848 (16.25 per cent), Maharashtra 91,411 (8.75 per cent), Kerala 87,812 (8.40 per cent) and Orissa 60,754 (5.81 per cent).

8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2009

8.1 Table – III reveals that during the year 2009 out of 62 applications for modification of Standing Orders (48 from previous year and 14 received during 2009) 9 applications were disposed of. The States of Himachal Pradesh and Kerala were disposed of 6 applications each. Similarly, out of 10 appeals (9 from previous year and 1 appeal received during the current year) against the orders of Certifying Officers, 2 appeals in the State of Kerala and 1 appeal in the State of Himachal Pradesh were disposed of during the year 2009.

9. Limitations of Statistics

9.1 The report is based on the information received from 11 States and 3 Union Territories whereas the Act extends to whole of India. There are States/UTs/Agencies, such as Arunachal Pradesh, Chhattisgarh, Delhi (NCT), Jharkhand, Manipur, Rajasthan, Tamil Nadu, Uttar Pradesh and C.L.C. (Central), Assam, Gujarat, Jammu and Kashmir, Karnataka, Madhya Pradesh, Meghalaya and West Bengal, which have either not submitted the returns or submitted defective/incomplete returns. Similarly, there are States/UTs, viz. Mizoram, Nagaland, Sikkim and Union Territories of Dadra & Nagar Haveli, Daman & Diu and Lakshadweep, where the Act has not been enforced. In view of this, the report may not be truly representative in nature. Similarly, all-India figures in the report may not be truly comparable over the years as the responding States/UTs vary from year to year.

Table – I

Sphere-wise Progress of Certification / Modification of Standing Orders during the years 2008 and 2009

Item	Sphere	Year		Percentage Increase or Decrease
	State/Central	2008	2009	
1	2	3	4	5
1 No. of Establishments covered under the Act	State	51639	29236	-43.38
	Central	..	..	..
	Total	51639	29236	-43.38
2 No. of workers employed in the Establishments covered under the Act	State	6463201	3052456	-52.77
	Central	..	..	..
	Total	6463201	3052456	-52.77
3 No. of Establishments having Certified Standing Orders at the end of the year	State	17152 (33.22%)	6491 (22.20%)	-62.16
	Central	..	..	..
	Total	17152 (33.22%)	6491 (22.20%)	-62.16
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	3243740 (50.19%)	1044955 (34.23%)	-67.79
	Central	..	..	..
	Total	3243740 (50.19%)	1044955 (34.23%)	-67.79
5 No. of applications pending for certification at the end of the year	State	2336	1469	-37.11
	Central	..	..	..
	Total	2336	1469	-37.11
6 No. of applications pending for modification of Standing Orders at the end of the year	State	76	53	-30.26
	Central	..	..	..
	Total	76	53	-30.26
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	19	7	-63.16
	Central	..	..	..
	Total	19	7	-63.16

.. = Not available due to non-receipt of information

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 2008 and 2009.

Table – II

State-wise progress of Certification of Standing Orders during 2009

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	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	4103	386054	954	154894	40 (2.69)	58 (13.36)	58 (12.83)	40	1012 (15.59)	169848 (16.25)
2 Bihar	72	19493	72	19493	-	-	-	-	72 (1.11)	19493 (1.87)
3 Goa	1967	108442	202	15928	55 (3.70)	7 (1.61)	2 (0.44)	60	209 (3.22)	16844 (1.61)
4 Haryana	5281	618961	1316	210459	81 (5.45)	75 (17.28)	118 (26.11)	38	1434 (22.09)	222967 (21.34)
5 Himachal Pradesh	1494	187005	196	25213	199 (13.38)	35 (8.06)	33 (7.30)	201	229 (3.53)	29030 (2.78)
6 Kerala	1395	252080	713	85975	52 (3.50)	13 (3.00)	27 (5.97)	38	717 (11.05)	87812 (8.40)
7 Maharashtra	2773	683967	437	88304	71 (4.78)	13 (3.00)	10 (2.21)	74	447 (6.89)	91411 (8.75)
8 Orissa	539	97027	253	60297	90 (6.05)	3 (0.69)	1 (0.22)	92	254 (3.91)	60754 (5.81)
9 Punjab	9726	521946	1388	240515	773 (51.98)	76 (17.51)	97 (21.46)	752	1485 (22.88)	253759 (24.28)
10 Tripura	69	15341	63	14120	-	-	-	-	63 (0.97)	14120 (1.35)
11 Uttarakhand	657	61898	357	41367	121 (8.14)	111 (25.58)	94 (20.80)	138	451 (6.95)	49695 (4.76)
12 A & N Islands	1	135	1	135	-	-	-	-	1 (0.01)	135 (0.01)
13 Chandigarh	228	13690	61	7375	2 (0.13)	-	1 (0.22)	1	62 (0.95)	7469 (0.72)
14 Puducherry	931	86417	55	21618	3 (0.20)	43 (9.91)	11 (2.44)	35	55 (0.85)	21618 (2.07)
Total State Sphere Undertakings	29236	3052456	6068	985693	1487 (100.00)	434 (100.00)	452 (100.00)	1469	6491 (100.00)	1044955 (100.00)
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..	..	..
Grand Total	29236	3052456	6068 (20.76)	985693 (32.29)	1487	434	452	1469	6491 (22.20)	1044955 (34.23)

- = Nil

.. = Not Available due to non-receipt of information

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

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.

Table – III

State-wise progress of Modification of Standing Orders and disposal of appeals during 2009

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	-	6	-	6	-	-	-	-
2 Bihar	-	-	-	-	-	-	-	-
3 Goa	-	-	-	-	-	-	-	-
4 Haryana	-	-	-	-	-	-	-	-
5 Himachal Pradesh	2	3	4	1	1	-	1	-
6 Kerala	11	2	4	9	5	1	2	4
7 Maharashtra	31	1	-	32	1	-	-	1
8 Orissa	3	2	-	5	2	-	-	2
9 Punjab	-	-	-	-	-	-	-	-
10 Tripura	-	-	-	-	-	-	-	-
11 Uttarakhand	1	-	1	-	-	-	-	-
12. A & N Islands	-	-	-	-	-	-	-	-
13 Chandigarh	-	-	-	-	-	-	-	-
14 Puducherry	-	-	-	-	-	-	-	-
Total State Sphere Undertakings	48	14	9	53	9	1	3	7
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..
Grand Total	48	14	9	53	9	1	3	7

- = Nil

.. = Not Available due to non-receipt of information