

Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2012

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 therefrom;
- (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. 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 2011 and 2012

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 2011 and 2012 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 decreased from 27.44 per cent in 2011 to 22.63

per cent in 2012. Similarly, the number of workers employed in these establishments out of total number of workers employed in the establishments covered under the Act also decreased from 47.30 per cent to 45.25 per cent.

7. State-wise progress of Certification of Standing Orders during 2012

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2012 are presented in Table-II. During this year, 89,186 establishments, employing 85,73,010 workers were under the purview of the Industrial Employment (Standing Orders) Act, 1946 in the States which submitted the returns. In the beginning of the year, 19,572 (21.95%) establishments employing 37,96,087 (44.28%) workers were having Certified Standing Orders in respect of all or only a group of employees. The applications of 2,434 establishments were pending for certification of Standing Orders with the concerned Authorities at the beginning of 2012. During the year 1,168 applications were received and 815 applications were disposed off. At the end of the year 2,787 applications were pending with the concerned Certifying Officers. At the end of the year 20,180 (22.63%) establishments employing 38,79,112 (45.25%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Out of the total 2,434 number of applications pending for certification at the commencement of the year, the maximum number 858 (35.25%) applications were pending in State of Punjab followed by Assam 379 (15.57%), West Bengal 335 (13.76%), Uttarakhand 149 (6.12%) and Himachal Pradesh 141 (5.79%). Out of the total 1,168 applications for certification received during the year 2012 maximum number i.e. 307 (26.28%) were received in the state of Karnataka followed by Tamil Nadu 233 (19.95%) and Gujarat 146 (12.50%). Out of these applications the maximum i.e. 197 (24.17%) were disposed of in the State of Tamil Nadu followed by Karnataka 165 (20.25%) and Gujarat 88 (10.80%). At the end of the year, 2012 the State of Tamil Nadu had the maximum number of establishments having Certified Standing Orders i.e. 7,947 (39.38%) followed by West Bengal 1,842 (9.13%), Haryana 1,604 (7.97%), Punjab 1,604 (7.95%) and Assam 1,320 (6.54%). However, the number of employees covered were highest in Tamil Nadu i.e. 9,12,320 (23.52%) followed by West Bengal 8,81,007

(22.71%), Assam 5,53,328 (14.26%), Punjab 2,73,496 (7.05%), Haryana 2,52,597 (6.51%) and Rajasthan 2,19,049 (5.65%).

8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2012

8.1 Table – III reveals that during the year 2012 out of 511 applications (240 from previous year and 271 received during 2012) for modification of Standing Orders 232 applications were disposed of. The State of Tamil Nadu alone disposed of 157 applications. Similarly, out of 33 appeals (24 from previous year and 9 appeal received during the current year) against the orders of Certifying Officers, 3 appeals in the State of Kerala and 2 appeals in the State of Maharashtra and 1 appeal in the State of Rajasthan were disposed of during the year 2012.

9. Limitations of Statistics

9.1 The report is based on the information received from 20 States and 4 Union Territories whereas the Act extends to whole of India. There are States/UTs/Agencies, such as Arunachal Pradesh, Bihar, Jammu & Kashmir, Jharkhand, Manipur, Uttar Pradesh and C.L.C. (Central), which have not submitted the 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. As regard the information pertaining to Chhattisgarh 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 encoded and applicable there. In view of this, the report may not be truly representative of all India situation. 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 2011 and 2012

Item	Sphere	Year		Percentage Increase or Decrease
	State/Central	2011	2012	
1	2	3	4	5
1 No. of Establishments covered under the Act	State	87221	89186	+2.25
	Central	..	..	..
	Total	87221	89186	+2.25
2 No. of workers employed in the Establishments covered under the Act	State	8656738	8573010	-0.97
	Central	..	..	..
	Total	8656738	8573010	- 0.97
3 No. of Establishments having Certified Standing Orders at the end of the year	State	23936 (27.44%)	20180 (22.63)	-15.70
	Central	..	..	..
	Total	23936 (27.44%)	20180 (22.63%)	-15.70
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	4094544 (47.30%)	3879112 (45.25%)	- 5.26
	Central	..	..	..
	Total	4094544 (47.30%)	3879112 (45.25%)	-5.26
5 No. of applications pending for certification at the end of the year	State	2706	2787	+2.99
	Central	..	..	..
	Total	2706	2787	+2.99
6 No. of applications pending for modification of Standing Orders at the end of the year	State	260	279	+7.30
	Central	..	..	..
	Total	260	279	+7.30
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	24	25	+4.16
	Central	..	..	..
	Total	24	25	+4.16

.. = 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 2011 and 2012.

Table – II
State-wise progress of Certification of Standing Orders during 2012

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	3508	375500	931	165187	23 (0.94)	57 (4.88)	46 (5.64)	34	963 (4.77)	172465 (4.45)
2 Assam	1651	554700	1260	547620	379 (15.57)	25 (2.14)	60 (7.36)	344	1320 (6.54)	553328 (14.26)
3 Chhattisgarh	-	-	-	-	-	-	-	-	-	-
4 Goa	1973	108992	220	22296	61 (2.51)	6 (0.51)	3 (0.37)	64	223 (1.11)	22617 (0.58)
5 Gujarat	29507	1454696	40	15801	40 (1.64)	146 (12.50)	88 (10.80)	98	39 (0.19)	19431 (0.50)
6 Haryana	5748	696892	1541	237322	43 (1.77)	56 (4.79)	63 (7.73)	36	1604 (7.95)	252597 (6.51)
7 Himachal Pradesh	2131	256760	277	34653	141 (5.79)	16 (1.37)	-	157	277 (1.37)	34653 (0.89)
8 Karnataka	1031	491816	717	172516	71 (2.92)	307 (26.28)	165 (20.25)	213	717 (3.55)	172516 (4.44)
9 Kerala	1680	255543	765	86508	39 (1.60)	13 (1.11)	10 (1.23)	42	775 (3.84)	87600 (2.26)
10 Madhya Pradesh	-	-	150	-	-	-	-	-	-	-
11 Maharashtra	3118	674986	407	83749	97 (3.99)	16 (1.37)	17 (2.09)	96	415 (2.05)	76450 (1.97)
12 Meghalaya	7	747	5	644	-	-	-	-	7 (0.03)	747 (0.02)
13 Mizoram	-	-	-	-	-	-	-	-	-	-
14 Orissa	551	101376	259	62751	98 (4.03)	3 (0.26)	4 (0.49)	97	263 (1.30)	63947 (1.65)
15 Punjab	10178	545885	1586	272473	858 (35.25)	45 (3.85)	18 (2.21)	885	1604 (7.95)	273496 (7.05)
16 Rajasthan	3794	512537	987	121571	33 (1.36)	35 (3.00)	17 (2.09)	51	1004 (4.98)	219049 (5.65)
17 Tamil Nadu	19992	1214724	7750	893065	-	233 (19.95)	197 (24.17)	36	7947 (39.38)	912320 (23.52)
18 Tripura	247	20408	27	6441	-	-	-	-	247 (1.22)	19996 (0.52)
19 Uttarakhand	960	89708	623	64587	149 (6.12)	105 (8.99)	61 (7.48)	193	684 (3.39)	72372 (1.89)
20 West Bengal	2186	1123822	1830	877943	335 (13.76)	15 (1.28)	12 (1.47)	338	1842 (9.13)	881007 (22.71)
21 A & N Islands	15	3670	15	3585	-	-	-	-	15 (0.07)	3670 (0.09)
22 Chandigarh	229	14393	63	8172	1 (0.04)	-	-	1	63 (0.31)	8172 (0.21)
23 Delhi	42	4025	42	4025	29 (1.19)	4 (0.34)	2 (0.25)	31	42 (0.21)	4025 (0.10)
24 Puducherry	638	71830	77	24178	37 (1.52)	86 (7.36)	52 (6.38)	71	129 (0.64)	28654 (0.73)
Total State Sphere Undertakings	89186	8573010	19572	3796087	2434 (100.00)	1168 (100.00)	815 (100.00)	2787	20180 (100.00)	3879112 (100.00)
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..	..	..
Grand Total	89186	8573010	19572 (21.95)	3796087 (44.28)	2434	1168	815	2787	20180 (22.63)	3879112 (45.25)

- = 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.

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 2012

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	7	3	2	8	-	2	2	-
2 Assam	-	-	-	-	-	-	-	-
3 Chhattisgarh	-	-	-	-	-	-	-	-
4 Goa	-	-	-	-	-	-	-	-
5 Gujarat	-	-	-	-	-	-	-	-
6 Haryana	-	-	-	-	-	-	-	-
7 Himachal Pradesh	1	-	-	1	-	-	-	-
8 Karnataka	29	37	45	21	5	-	-	5
9 Kerala	11	6	-	17	4	3	3	4
10 Madhya Pradesh	2	4	2	4	-	-	-	-
11 Maharashtra	19	13	11	21	4	3	2	5
12 Meghalaya	-	-	-	-	-	-	-	-
13 Mizoram	-	-	-	-	-	-	-	-
14 Orissa	4	-	-	4	-	-	-	-
15 Punjab	-	-	-	-	-	-	-	-
16 Rajasthan	7	6	6	7	9	1	1	9
17 Tamil Nadu	86	193	157	122	2	-	-	2
18 Tripura	-	-	-	-	-	-	-	-
19 Uttarakhand	3	5	2	6	-	-	-	-
20 West Bengal	71	4	7	68	-	-	-	-
21 A & N Islands	-	-	-	-	-	-	-	-
22 Chandigarh	-	-	-	-	-	-	-	-
23 Delhi	-	-	-	-	-	-	-	-
24 Puducherry	-	-	-	-	-	-	-	-
Total State Sphere Undertakings	240	271	232	279	24	9	8	25
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..
Grand	240	271	232	279	24	9	8	25
Total								

- = Nil

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

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