

## **Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2015**

### **1. Scope and Objectives**

1.1 The Industrial Employment (Standing Orders) Act, 1946 came into force on 23<sup>rd</sup> 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 2014 and 2015**

6.1 Sphere-wise (Central and State) details of establishments covered under Industrial Employment (Standing Orders) Act, 1946 along with the progress of Certification/Modification of Standing Orders during the years 2014 and 2015 are given in Table – I. It reveals that in 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 35.34 percent in 2014 to 30.59 per cent in 2015. Similarly, the proportion of workers employed

in these establishments out of total number of workers employed in the establishments covered under the Act also decreased from 49.07 percent to 45.48 percent.

## **7. State-wise progress of Certification of Standing Orders during 2015**

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2015 are presented in Table-II. During 2015, a total of 90,842 establishments employing 1.02 crore workers were covered under the purview of Industrial Establishments (Standing Orders) Act, 1946 in all the States/Union Territories. In beginning of the year 2015, 26,759 (29.46% of total establishments) establishments employing 45.53 lakh (44.82% of total workers) workers were having certified standing orders in all or only group of employees in all the States/Union Territories. During 2015, 1184 applications for certification of Standing Order were received, however, 3321 number of application of establishments were already pending with concerned authorities at the beginning of 2015. During 2015, 1037 applications were disposed off and at the end of 2015, 3468 applications were still pending and 27,786 (30.59%) establishments employing 46,20,267 (45.48%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Out of the total 3321 number of applications pending, the maximum number 915 (27.55%) applications were in State of Punjab followed by West Bengal 360 (10.84%), Assam 309 (9.30%), Karnataka 296 (8.91%) and Uttarakhand 225 (6.78%). Out of the total 1,184 applications for certification received during the year 2015 maximum number i.e. 386 (32.60%) were received in the state of Tamil Nadu followed by Uttar Pradesh 240 (20.27%) and Karnataka 141 (11.91%). Out of total applications during 2015, the maximum applications i.e. 388 (37.42%) were disposed off by the State of Tamil Nadu followed by Uttar Pradesh 175 (16.88%) and Karnataka 135 (13.02%). As a result, at the end of the year 2015, the State of Tamil Nadu had the maximum number of establishments having Certified Standing Orders i.e. 9,157 (32.96%) followed by Uttar Pradesh 5,468 (19.68%), West Bengal 1,860 (6.69%), Haryana 1,815 (6.53%) and Punjab 1,658 (5.97%). The number of employees covered were also highest in Tamil Nadu i.e. 9,85,464 (21.33%) followed by West Bengal 8,85,257 (19.16%), Assam 5,46,172 (11.82%), Uttar Pradesh 5,27,122 (11.41%), Haryana 281714 (6.10%) and Punjab 2,80,591 (6.07%).

## **8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2015**

8.1 Table – III reveals that during 2015, out of 277 applications (183 from previous year and 94 received during 2015) for modification of Standing Orders, 90 applications were disposed off. The maximum number of 26 applications were disposed off by Maharashtra followed by Haryana (21 applications) and Tamil Nadu (14 applications). Out of 25 appeals (22 from previous year and 3 appeal received during the current year) against the orders of Certifying Officers, 2 appeals in the State of Rajasthan and 1 (each) appeal in the States of Goa, Karnataka and Kerala was disposed of during the year 2015.

## **9. Limitations of Statistics**

9.1 The report is based on the information received from 21 States and 4 Union Territories, whereas the Act extends to whole of India. There are States/UTs/Agencies, like Arunachal Pradesh, Jammu & Kashmir, Manipur, Meghalaya, Telangana 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 Madhya Pradesh and 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 encored and applicable there. 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/UTs vary from year to year.

Table – I

## Sphere-wise Progress of Certification / Modification of Standing Orders during the years 2014 and 2015

Item	Sphere	Year		Percentage Growth
	State/Central	2014	2015	
1	2	3	4	5
1 No. of Establishments covered under the Act	State	75743	90842	+19.93
	Central	..	..	..
	<b>Total</b>	<b>75743</b>	<b>90842</b>	<b>+19.93</b>
2 No. of workers employed in the Establishments covered under the Act	State	9280792	10159140	+9.46
	Central	..	..	..
	<b>Total</b>	<b>9280792</b>	<b>10159140</b>	<b>+9.46</b>
3 No. of Establishments having Certified Standing Orders at the end of the year	State	26766 (35.34)	27786 (30.59)	+3.81
	Central	..	..	..
	<b>Total</b>	<b>26766</b> <b>(35.34)</b>	<b>27786</b> <b>(30.59)</b>	<b>+3.81</b>
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	4554179 (49.07)	4620267 (45.48)	+1.45
	Central	..	..	..
	<b>Total</b>	<b>4554179</b> <b>(49.07)</b>	<b>4620267</b> <b>(45.48)</b>	<b>+1.45</b>
5 No. of applications pending for certification at the end of the year	State	3321	3468	+4.43
	Central	..	..	..
	<b>Total</b>	<b>3321</b>	<b>3468</b>	<b>+4.43</b>
6 No. of applications pending for modification of Standing Orders at the end of the year	State	183	187	+2.19
	Central	..	..	..
	<b>Total</b>	<b>183</b>	<b>187</b>	<b>+2.19</b>
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	20	20	0.00
	Central	..	..	..
	<b>Total</b>	<b>20</b>	<b>20</b>	<b>0.00</b>

.. = 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 2014 and 2015.  
 3. Total Figures under col. No. 3 in Table-I may not tally with Total figures under col. No. 6 in Table-III due to non receipt of clarifications timely.

**Table – II**  
**State-wise progress of Certification of Standing Orders in 2015**

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 2015		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 2015	
	Number of establishments	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	1714	240830	735	143265	23 (0.69)	24 (2.03)	24 (2.31)	23	759 (2.73)	151853 (3.29)
2 Assam	1708	559760	1370	554232	309 (9.30)	37 (3.13)	36 (3.47)	310	1406 (5.06)	546172 (11.82)
3 Chhattisgarh					Not Enforced					
4 Bihar	102	11486	..	..	..	..	..	..	..	..
5 Goa	1985	110479	229	23652	64 (1.93)	7 (0.59)	4 (0.39)	67	233 (0.84)	23730 (0.51)
6 Gujarat	12539	1057137	39	49984	107 (3.22)	5 (0.42)	1 (0.10)	111	40 (0.14)	5571 (0.12)
7 Haryana	6008	745947	1757	273409	37 (1.11)	61 (5.15)	68 (6.56)	30	1815 (6.53)	281714 (6.10)
8 Himachal Pradesh	2368	283760	277	34653	209 (6.29)	41 (3.46)	12 (1.16)	238	289 (1.04)	36258 (0.78)
9 Jharkhand	1206	92509	108	11829	-	4 (0.34)	4 (0.39)	-	112 (0.40)	12366 (0.27)
10 Karnataka	1952	660283	943	213780	296 (8.91)	141 (11.91)	135 (13.02)	302	1078 (3.88)	249032 (5.39)
11 Kerala	2049	272908	804	89610	48 (1.45)	34 (2.87)	19 (1.83)	63	823 (2.96)	90899 (1.97)
12 Madhya Pradesh					Not Enforced					
13 Maharashtra	3162	660956	392	78722	82 (2.47)	17 (1.44)	16 (1.54)	83	408 (1.47)	79264 (1.72)
14 Orissa	582	117105	282	70811	102 (3.07)	8 (0.68)	4 (0.39)	106	286 (1.03)	72416 (1.57)
15 Punjab	11034	581440	1658	280591	915 (27.55)	12 (1.01)	-	927	1658 (5.97)	280591 (6.07)
16 Rajasthan	4447	606254	1061	235391	56 (1.69)	13 (1.10)	33 (3.18)	36	1094 (3.94)	241230 (5.22)
17 Tamil Nadu	25614	2076370	8769	971397	44 (1.32)	386 (32.60)	388 (37.42)	42	9157 (32.96)	985464 (21.33)
18 Tripura	415	37520	91	19149	156 (4.70)	71 (6.00)	71 (6.85)	156	162 (0.58)	19220 (0.42)
19 Uttar Pradesh	9671	716872	5293	493022	193 (5.81)	240 (20.27)	175 (16.88)	258	5468 (19.68)	527122 (11.41)
20 Uttarakhand	1122	93907	819	80248	225 (6.78)	56 (4.73)	33 (3.18)	248	852 (3.07)	81087 (1.76)
21 West Bengal	2231	1131953	1849	882303	360 (10.84)	17 (1.44)	11 (1.06)	366	1860 (6.69)	885257 (19.16)
22 A & N Islands	15	3813	15	3777	-	-	-	-	15 (0.05)	3813 (0.08)
23 Chandigarh	230	14536	66	8315	-	-	-	-	66 (0.24)	8315 (0.18)
24 Delhi	42	4025	42	4025	44 (1.32)	4 (0.34)	- (0.00)	48	42 (0.15)	4025 (0.09)
25 Puducherry	646	79290	160	31254	51 (1.54)	6 (0.51)	3 (0.29)	54	163 (0.59)	34868 (0.75)
<b>Total State Sphere Undertakings</b>	<b>90842</b>	<b>10159140</b>	<b>26759</b>	<b>4553419</b>	<b>3321</b> <b>(100.00)</b>	<b>1184</b> <b>(100.00)</b>	<b>1037</b> <b>(100.00)</b>	<b>3468</b>	<b>27786</b> <b>(100.00)</b>	<b>4620267</b> <b>(100.00)</b>
<b>Total Central Sphere Undertakings</b>	..	..	..	..	..	..	..	..	..	..
<b>Grand Total</b>	<b>90842</b>	<b>10159140</b>	<b>26759</b> <b>(29.46)</b>	<b>4553419</b> <b>(44.82)</b>	<b>3321</b>	<b>1184</b>	<b>1037</b>	<b>3468</b>	<b>27786</b> <b>(30.59)</b>	<b>4620267</b> <b>(45.48)</b>

- = 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 and 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 2015

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	2	-	1	1	-	-	-	-
2 Assam	-	-	-	-	-	-	-	-
3 Bihar	-	-	-	-	-	-	-	-
4 Chhattisgarh					Not Enforced			
5 Goa	-	-	-	-	1	-	1	-
6 Gujarat	2	-	-	2	-	-	-	-
7 Haryana	-	27	21	6	-	-	-	-
8 Himachal Pradesh	2	-	-	2	-	-	-	-
9 Jharkhand	-	-	-	-	-	-	-	-
10 Karnataka	..	..	..	..	6	1	1	6
11 Kerala	14	30	13	31	1	2	1	2
12 Madhya Pradesh					Not Enforced			
13 Maharashtra	30	24	26	28	1	-	-	1
14 Orissa	4	-	-	4	-	-	-	-
15 Punjab	-	2	2	-	-	-	-	-
16 Rajasthan	4	4	6	2	10	-	2	8
17 Tamil Nadu	42	-	14	28	2	-	-	2
18 Tripura	-	-	-	-	-	-	-	-
19 Uttarakhand	7	2	3	6	1	-	-	1
20 Uttar Pradesh	-	-	-	-	-	-	-	-
21 West Bengal	73	5	4	74	-	-	-	-
22 A & N Islands	-	-	-	-	-	-	-	-
23 Chandigarh	..	..	..	..	..	..	..	..
24 Delhi	3	-	-	3	-	-	-	-
25 Puducherry	-	-	-	-	-	-	-	-
<b>Total State Sphere Undertakings</b>	<b>183</b>	<b>94</b>	<b>90</b>	<b>187</b>	<b>22</b>	<b>3</b>	<b>5</b>	<b>20</b>
<b>Total Central Sphere Undertakings</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>..</b>
<b>Grand Total</b>	<b>183</b>	<b>94</b>	<b>90</b>	<b>187</b>	<b>22</b>	<b>3</b>	<b>5</b>	<b>20</b>

- = Nil

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