

Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2010

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 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 2009 and 2010

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 2009 and 2010 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 increased from 22.20 per cent in 2009 to 24.75 per cent in 2010. Similarly, the number of workers employed in these establishments out of total number of workers employed in the establishments covered under the Act also increased from 34.23 per cent to 43.52 per cent.

7. State-wise progress of Certification of Standing Orders during 2010

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2010 are presented in Table-II. During this year, 33,154 establishments, employing 32,03,729 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, 8,064 (24.32%) establishments employing 13,79,870 (43.07%) workers were having Certified Standing Orders in respect of all or only a group of employees. The applications of 1,590 establishments were pending for certification of Standing Orders with the concerned Authorities at the beginning of 2010. During the year 446 applications were received and 416 applications were disposed of. At the end of the year 1,620 applications were pending with the concerned Certifying Officers. At the end of the year 8,204 (24.75%) establishments employing 13,94,410 (43.52%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Out of the total 1590 number of applications pending for certification at the commencement of the year, the maximum number 752 (47.30%) applications were pending in State of Punjab followed by Himachal Pradesh 201 (12.64%), Uttarakhand 138 (8.68%), Orissa 92 (5.79%) and Karnataka 78 (4.91%). Out of the total 446 applications for certification received during the year 2010 maximum number i.e. 82 (18.39%) were received in the state of Karnataka followed by Uttarakhand 68 (15.25%) and Haryana 61 (13.68%). Out of these applications the maximum i.e. 75 (18.03%) were disposed of in the State of Karnataka followed by Punjab 73 (17.55%) and Haryana 59 (14.18%). At the end of the year, 2010 the State of Punjab had the maximum number of establishments having Certified Standing Orders i.e. 1,568 (19.11%) followed by Haryana 1,493 (18.20%), Rajasthan 953 (11.62%), Andhra Pradesh 841 (10.25%) and

Kerala 750 (9.14%). However, the number of employees covered were highest in Punjab i.e. 2,68,938 (19.29%) followed by Haryana 2,29,987 (16.49%), Rajasthan 2,04,103 (14.64%) Karnataka 1,72,516 (12.37%), Andhra Pradesh 1,39,425 (10.00%), Kerala 85,428 (6.13%) and Maharashtra 72,225 (5.18%).

8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2010

8.1 Table – III reveals that during the year 2010 out of 163 applications (87 from previous year and 76 received during 2010) for modification of Standing Orders 77 applications were disposed of. The State of Karnataka alone disposed of 47 applications. Similarly, out of 26 appeals (20 from previous year and 6 appeal received during the current year) against the orders of Certifying Officers, 4 appeals in the State of Kerala and 2 appeal in the State of Orissa and 1 appeal in the State of Andhra Pradesh were disposed of during the year 2010.

9. Limitations of Statistics

9.1 The report is based on the information received from 13 States and 2 Union Territories whereas the Act extends to whole of India. There are States/UTs/Agencies, such as Arunachal Pradesh, Assam, Chhattisgarh, Jammu and Kashmir, Jharkhand, Manipur, Tamil Nadu, Uttar Pradesh, A & N Islands, Delhi (NCT), and C.L.C. (Central), Gujarat, Madhya Pradesh, Tripura 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 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 2009 and 2010

Item	Sphere	Year		Percentage Increase or Decrease
	State/Central	2009	2010	
1	2	3	4	5
1 No. of Establishments covered under the Act	State	29236	33154	+13.40
	Central	..	..	..
	Total	29236	33154	+13.40
2 No. of workers employed in the Establishments covered under the Act	State	3052456	3203729	+4.96
	Central	..	..	..
	Total	3052456	3203729	+4.96
3 No. of Establishments having Certified Standing Orders at the end of the year	State	6491 (22.20%)	8204 (24.75%)	+26.39
	Central	..	..	..
	Total	6491 (22.20%)	8204 (24.75%)	+26.39
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	1044955 (34.23%)	1394410 (43.52%)	+33.44
	Central	..	..	..
	Total	1044955 (34.23%)	1394410 (43.52%)	+33.44
5 No. of applications pending for certification at the end of the year	State	1469	1620	+10.28
	Central	..	..	..
	Total	1469	1620	+10.28
6 No. of applications pending for modification of Standing Orders at the end of the year	State	53	86	+62.26
	Central	..	..	..
	Total	53	86	+62.26
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	7	19	+171.43
	Central	..	..	..
	Total	7	19	+171.43

.. = 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.

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 - 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 2009 and 2010.

Table – II
State-wise progress of Certification of Standing Orders during 2010

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	3429	362905	1012	169848	40 (2.52)	46 (10.31)	46 (11.06)	40	841 (10.25)	139425 (10.00)
2 Bihar	72	19493	72	19493	-	-	-	-	72 (0.88)	19493 (1.40)
3 Goa	1967	108442	207	16735	60 (3.77)	4 (0.90)	2 (0.48)	62	211 (2.57)	19401 (1.39)
4 Haryana	5482	651183	1434	222967	38 (2.39)	61 (13.68)	59 (14.18)	40	1493 (18.20)	229987 (16.49)
5 Himachal Pradesh	1713	212160	229	29030	201 (12.64)	32 (7.17)	46 (11.06)	187	275 (3.35)	34478 (2.47)
6 Karnataka	1447	261858	692	151691	78 (4.91)	82 (18.39)	75 (18.03)	85	717 (8.74)	172516 (12.37)
7 Kerala	1572	229987	740	87960	38 (2.39)	12 (2.69)	10 (2.40)	40	750 (9.14)	85428 (6.13)
8 Maharashtra	2822	609750	447	91411	74 (4.65)	21 (4.71)	9 (2.16)	86	447 (5.45)	72225 (5.18)
9 Meghalaya	5	644	5	675	-	-	-	-	5 (0.06)	644 (0.05)
10 Orissa	546	99670	254	60754	92 (5.79)	9 (2.02)	5 (1.20)	96	259 (3.16)	62751 (4.50)
11 Punjab	8846	20375	1485	253759	752 (47.30)	60 (13.45)	73 (17.55)	739	1568 (19.11)	268938 (19.29)
12 Rajasthan	3364	457328	919	196765	43 (2.70)	29 (6.50)	24 (5.77)	48	953 (11.62)	204103 (14.64)
13 Uttarakhand	729	69124	451	49695	138 (8.68)	68 (15.25)	44 (10.58)	162	495 (6.03)	55231 (3.96)
14 Chandigarh	229	14393	62	7469	1 (0.06)	-	1 (0.24)	-	63 (0.77)	8172 (0.58)
15 Puducherry	931	86417	55	21618	35 (2.20)	22 (4.93)	22 (5.29)	35	55 (0.67)	21618 (1.55)
Total State Sphere Undertakings	33154	3203729	8064	1379870	1590 (100.00)	446 (100.00)	416 (100.00)	1620	8204 (100.00)	1394410 (100.00)
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..	..	..
Grand Total	33154	3203729	8064 (24.32)	1379870 (43.07)	1590	446	416	1620	8204 (24.75)	1394410 (43.52)

- = 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 2010

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	9	7	8	-	1	1	-
2 Bihar	-	-	-	-	-	-	-	-
3 Goa	-	-	-	-	-	-	-	-
4 Haryana	-	-	-	-	-	-	-	-
5 Himachal Pradesh	1	-	1	-	-	-	-	-
6 Karnataka	27	46	47	26	5	-	-	5
7 Kerala	9	6	3	12	4	5	4	5
8 Maharashtra	32	10	17	25	1	-	-	1
9 Meghalaya	-	-	-	-	-	-	-	-
10 Orissa	5	-	1	4	2	-	2	-
11 Punjab	-	-	-	-	-	-	-	-
12 Rajasthan	7	-	-	7	8	-	-	8
13. Uttarakhand	-	5	1	4	-	-	-	-
14 Chandigarh	-	-	-	-	-	-	-	-
15 Puducherry	-	-	-	-	-	-	-	-
Total State Sphere Undertakings	87	76	77	86	20	6	7	19
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..
Grand Total	87	76	77	86	20	6	7	19

- = 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