

The Industrial Employment (Standing Orders) Act, 1946

Special Features of the Act

The main features of the Act are —

- (1) The employer of every industrial establishment to which the Act applies is required to frame draft standing orders and to submit them to the certifying officer, who is generally the Labour Commissioner.
 - (2) The definition of 'workmen' includes a 'Supervisory Technical Personnel'.
 - (3) The certifying officer is empowered to modify or add to the draft standing order as to render them certifiable under the Act.
 - (4) Drafting of standing orders is compulsory for all such employers who employed or have employed 100 or more than 100 workmen on any day of the preceeding 12 months.
 - (5) The draft standing order must be in conformity with the Model standing order.
 - (6) The Appropriate Govt. may draft model standing orders for the purpose of this Act.
- The model standing orders are applied to

② those industrial establishment to which the Act becomes applicable but ~~mean~~ standing orders are yet to be certified.

The model standing order apply for a temporary period till the time taken by employers to draft the standing order and to get them certified from the Certifying Officer.

(7) The C.O and the Appellate Authorities shall have all the powers of a Civil Court in respect of certain matters.

(8) The employer can be penalised for the failure to submit draft standing orders for certification or for contravention of any provision of the Certified standing orders.

(9) The Appropriate Govt. may by notification in the Official Gazette exempt any establishment or class of establishment from any of the provision of this Act.

(10) The Appropriate Govt. may after previous publication by notification in the Official Gazette makes rules to carry out the purpose of the Act.

(8) What is the Procedure for Certification of standing orders?

Ans:- (I) Introduction → (Add Section 2(g) definition of Standing Orders):

(II) Procedure for Certification of standing orders.

Following is the procedure for certification of standing orders laid down in section 3, 4 & 5 of this Act.

Section 3 → Submission of Draft standing orders.

(1) According to section 3(1), an employer must submit the draft standing orders (S.O.) to the certifying officer (C.O.) within 6 months from the date on which the Act becomes applicable to the industrial establishment.

(2) The Schedule to the Act specifies the matters which are to be included in the S.O. The appropriate Govt. may prescribe model standing orders for the Industrial Establishment within the

state. In such, the S.O. drafted by the employer must be in conformity with such model standing orders.

(3) Acc. to Section 3(3) — the draft S.O. must be ~~acc~~ accompanied by the statement. The statement must give the name of the trade union to which its workman belongs.

(4) Acc. to Section 3(4) — A group of employers in similar establishment may submit a joint draft of standing orders. However, the submission of joint draft standing orders is subject to such conditions as may be prescribed.

Section 4 → Conditions for Certification of Standing Orders.

According to Section 4 for certification of S.O. must fulfill the following conditions :-

(i) In the S.O. provisions must be made for every matter set out in the Schedule of the Act.

(ii) The S.O. must be in conformity of with the provision of this Act.

Section 4 confers upon the workmen

a right to contest the draft S.O.
submitted by the employer for
certification on the ground that
they are either unfair or
unreasonable.

C.L. :- Rohatak and Hissar District Electric
Supply Co. Ltd.

v/s.

State of U.P.

[AIR 1966 SC 1971].

The SC held that the consent of the
employees is no doubt a relevant
factor which the C.O. may bear in
mind in dealing with the question
as to the fairness and reasonableness
of the standing orders.

Glaxo Laboratory Ltd.

v/s

Presiding Officer, Labour Court.

[AIR 1984 SC 506].

The S.C. pointed out the power to
prescribe condition of service is not
unilateral but the workmen have
right to object and to be heard
and a statutory authority that is
C.O. has to certify them.

Section 5 → Certification of Standing Order: 2)

(1) According to Section 5(1), after receiving the draft of the S.O. from the employer, the C.O. has to forward a copy thereof to a trade union of the workmen.

Where there is no such trade union, the copy has to be sent to the workmen in such manner as may be prescribed.

Moreover, if the workmen ~~are required~~ make any objection, the objection should be made within 15 days from the receipt of the notice of the C.O.

(2) According to Section 5(2), ~~workmen are~~ opportunity of being heard is given to workmen and the employer.

After giving an opportunity of being heard to the employer and workmen, the C.O. decides whether or not any modification or addition to the draft submitted by the employer is necessary.

The order shall be made in writing regarding the modification or if there is no modification also.

(3) According to Section 5(3), the C.O. is to send the copies of the S.O.

to the employer and also to the unions of the workman. The copies of the certified S.O. are to be sent by the certifying officer in the prescribed manner within 7 days after certification.

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Section 6 Appeal.

(9)

- (1) Section 6 lays down that every employer, workmen, trade unions or other prescribed representatives of the workmen aggrieved by the order of the certifying officer, ~~made~~ may make an appeal to the Appellate Authority.
- (2) Such appeal is to be made ~~on which~~ within 30 days from the date on which copies of the certified standing orders are sent by the certifying officer to the Employer and the workmen.
- (3) The Appellate Authority decides whether the order of the certifying officer is to be modified or not. If the Appellate Authority decides that the standing orders ~~are~~ certified by the ~~CO~~ needs no modification, in such case the Appellate Authority in writing confirms the standing orders.
- (4) In case, if the Appellate Authority decides to modify the standing orders, the Appellate Authority may make such modification or addition as ~~he~~ thinks necessary. The decision of the Appellate Authority shall be

- (5) The Appellate Authority shall within 7 days of its orders sent ~~the~~ ^{to} the copies of the C.O. to the employer, workmen, trade unions and other prescribed representatives.

Section 7 → Date of operation of Standing Orders.

- (1) If no appeal is preferred against the order of the C.O., then the Standing orders come into operation on expiry of 30 days.
- (2) The expiry of 30 days is from the date on which the C.O. has sent the copies of the Standing order after certification, to the employer, workmen, trade union or representatives of the workmen.
- (3) If an appeal is filed against the order of the C.O. then the Standing orders come into operation on expiry of 7 days from the date when the appellate authority sends the copies of its orders to the parties.

C.L :- Agra Electric Supply Co. Ltd. (11)

VLS

Labour Court, Meerut.

(AIR 1970 SC. 512).

The S.C. held that once the standing orders came into operation, they bind all those presently employed as well as those who are appointed hereafter.

Section 8 → Register of Standing Orders.

A copy of standing orders which has been finally certified shall be filed by the C.O. in a register in a prescribed form maintained for the purpose. The copy maintained shall be furnished to any person on payment of the prescribed fee.

Section 9 → Posting of Standing Orders

The text of the standing orders as finally certified shall be prominently posted by the employer in English and also in the language understood by the majority of the workmen, or

special board to be mentioned for the purpose,
(2) at or near the entrance through which the majority of the workmen enter the industrial establishment.

A copy of ~~the~~ such Standing orders also be posted in all departments where the workmen are employed.

Section 10 → Duration and Modification of the Certified Standing Orders.

(1) A Standing order finally certified under this Act, shall be liable to modification until the expiry of 6 months from the date on which the standing order or modification came into operation.

(2) After the expiry of 6 months, an employer or workman or a trade union or other representative body of workmen, may apply for the modification of the Certified Standing orders.

(13)

Section 10 - A → Payment of Subsistence Allowance.

Where any workman is suspended by the employer, during investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowances as under.

- (1) At the rate of 50% of the wages which the work man was entitled to immediately preceding the date of such suspension, for the first 90 days of the suspension and
- 2) At the rate of 75% of such wages for remaining period of suspension if the delay in completion of disciplinary proceeding against such workmen is not directly attributable to the conduct of such workmen.

(2) If any dispute arises regarding the subsistence allowance payable to a workman, the workman or the employer concerned shall refer the matter to the Labour Court, ~~Industrial Tribunal~~ under the local jurisdiction of the industrial establishment.

(3) The Court ~~may~~ shall give the parties an opportunity of being heard and decide the dispute and the decision shall be binding on the parties.

Section 12-A → Temporary Application of the Model Standing Orders.

(1) The prescribed Model Standing Orders shall be deemed to be adopted in the establishment till such time that the Standing Orders finally certified come into operation in that establishment.

Section 13 → Penalties and Procedure

(15)

- (1) Non-submission of draft Standing Orders within the time limit is specified in the Act is made penal under Section 13.
- (2) Similarly, modification of the Standing orders otherwise than in accordance with the provision laid down in Section 10 is punishable.
- (3) For his failures, a fine which may extend to Rs. 5000/- may be imposed upon the employer. In case of continuance of offence, a further fine of Rs. 200/- per day may be imposed upon the employer.
- (4) An employer, who does ^{any} ~~not~~ act in contravention of the Standing Orders shall be punishable with a fine which may extend to Rs. 100/- and in case of a continuing offence with a further fine which may extend to Rs. 20 per day.