

# **The M.P. Industrial Employment (Standing Orders) Act, 1961**

MADHYA PRADESH

India

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### **Act 26 of 1961**

- Published on 4 November 1961
- Commenced on 4 November 1961
- [This is the version of this document from 4 November 1961.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Industrial Employment (Standing Orders) Act, 1961(M.P. Act No. 26 of 1961)Statement of Objects and Reasons. - The Madhya Pradesh Industrial Relations Act, 1960, the Indian Trade Unions (Madhya Pradesh Amendment) Act, 1960, and the Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959, together form an integrated scheme of laws and orders on industrial relations. As the first two Acts were enacted a year after the enactment of the third, it has become imperative to bring the third Act, the Madhya Pradesh Industrial Workmen (Standing Orders) Act, in conformity with the first two Acts by re-enacting it. The Bill is designed to serve this purpose.Received the assent of the President on the 9-7-1961 : assent first published in the Madhya Pradesh Gazette, on the 28-7-1961.An Act to provide for rules defining with sufficient precision in certain matters the conditions of employment of employees in undertakings in the State of Madhya Pradesh.Be it enacted by the Madhya Pradesh Legislature in the Twelfth Year of the Republic of India as follows :-

### **1. Short title, extent and commencement.**

(1)This Act may be called the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961.(2)It extends to the whole of Madhya Pradesh.(3)It shall come into force on such date as the State Government may, by notification, appoint.

### **2. Application of the Act.**

(1)This Act shall apply to :-(a)every undertaking wherein the number of employees on any day during the twelve months preceding or on the day this Act comes into force or on any day thereafter was or is more than twenty; and(b)such other class or classes of undertakings as the State Government may, from time to time, by notification, specify in this behalf :[Provided that it shall not apply to an undertaking carried on by or under the authority of the Central Government or railway

administration or a mine or an oilfield.] [Inserted by M.P. Act No. 5 of 1962.](2)Nothing in this Act shall apply to the employees in an undertaking to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations or any other rules or regulations that may be notified in this behalf by the State Government in the Official Gazette apply.

### **3. Definitions.**

- In this Act, unless the context otherwise requires :-(a)"Certifying Officer" means the (Commissioner of Labour or such other officer not below the rank of an Assistant Commissioner of Labour as may be appointed by Government, by notification, to exercise the powers and perform the functions of a Certifying Officer under this Act;(b)"standard standing orders" means rules framed under Section 21 relating to matters set out in the Schedule;(c)"standing orders " in respect of any industrial establishment means the standing orders applicable to such establishment immediately before the coming into force of this Act and includes standard standing orders together with all amendments thereto, if any, certified under Section 8;(d)the words and expressions used in the Act but not defined herein shall have the meaning assigned to them in Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960).

### **4. Central Act XX of 1946 not to apply.**

- Nothing in Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), shall, apply to any undertaking to which this Act applies :Provided that any proceeding under the said Act pending on the date of the commencement of this Act may be continued and completed in accordance with the provisions of the said Act as if this Act had not been passed.

### **5. Power to exempt.**

- Where the State Government is of the opinion that it is necessary and expedient in the public interest so to do, it may, by notification and subject to such conditions, if any, as it may specify in the notification :-(a)exempt any undertaking or class of undertakings from the operation of all or any of the provisions of this Act; and(b)as often as may be, cancel any such notification and again subject, by a like notification, the undertaking or class of undertakings to the operation of such provisions.

### **6. Application of Standard Standing Orders to undertakings.**

(1)The State Government may, by notification, apply standard standing orders to such class of undertakings and from such date as may be specified therein.(2)Where immediately before the commencement of this Act standing orders are in force in respect of any undertaking, such standing orders shall, until standard standing orders are applied to such undertaking under sub-section (1) continue in force as if they were made under this Act.(3)The standard standing orders made or amendments certified under this Act shall provide for every matter set out in the Schedule.

## **7. Submission of amendment.**

(1)The employer or any representative of employees may submit to the Certifying Officer in the prescribed manner draft amendment to the standing orders applicable to an undertaking under Section 6 :Provided that no such amendment shall, except on an agreement between the parties, be entertained-(a)in respect of standard standing orders within one year of the date on which-(i)such orders were made applicable under Section 6; or(ii)an amendment is certified under sub-section (3) of Section 8; or(b)in respect of standing orders within one year of the date on which the last amendment to such orders were certified.(2)The draft amendments submitted under this section shall be accompanied by a statement giving prescribed particulars of the employees in the undertaking.(3)Subject to such conditions as may be prescribed, a group of employers or representatives of employees in the same industry may submit a joint draft of amendments under this section.

## **8. Certification of amendments.**

(1)On receipt of the draft under Section 7, the Certifying Officer shall forward a copy thereof to the representative of the employees or the employer, as the case may be, requiring objections, if any, to be submitted to him in the prescribed manner within fifteen days of the date of receipt of the copy.(2)After giving both the parties an opportunity of being heard, the Certifying Officer shall decide whether or not the draft amendments or any modifications thereof or additions thereto are necessary and shall make an order in writing accordingly :Provided that no order to the effect that the draft amendments or any modifications or additions thereto is necessary shall be made unless the Certifying Officer is satisfied that such amendments or modifications or additions are fair or reasonable.(3)If, under the preceding sub-section, the Certifying Officer decides that the draft amendments be certified, with or without any modifications or additions, he shall certify the amendment with such modifications or additions, if any, and shall within seven days thereafter send certified copies of such amendments to the employer and to the representative of the employees.

## **9. Appeals.**

- [Any employer, employee or representative of employees] [Substituted by M.P. Act No. 25 of 1985.] aggrieved by the order of the Certifying Officer under sub-section (2) of Section 8, may, within thirty days of the date of passing the said order, file an appeal before the Industrial Court which may confirm, vary or rescind the order :Provided that in computing the period of thirty days, the time requisite for obtaining a copy of the order appealed against shall be excluded :Provided further that the Industrial Court may, for sufficient reasons admit any appeal made after the expiry of such period.(2)The Industrial Court shall cause a copy of its order under sub-section (1) to be transmitted to the Certifying Officer who shall proceed to take necessary action under sub-section (3) of Section 8 as if the order was passed by him.(3)The order of the Industrial Court shall be final and binding on the parties.

## **10. Date of operation of amendments.**

- Amendments of standing orders shall come into operation on the expiry of thirty days from the date on which certified copies thereof are sent under sub-section (3) of Section 8 or where an appeal is preferred, on the expiry of seven days from the date on which they are sent by the Certifying Officer under the said sub-section read with sub-section (2) of Section 9.

## **11. Posting of Standing Orders.**

- The text of the standing orders shall be prominently posted by the employer in English and Hindi on special boards to be maintained for the purpose at or near the entrance through which the majority of the employees enter the undertaking and in all departments thereof where the employees are employed.

## **12. Register of Standing Orders.**

- A copy of all standing orders shall be filed by the Certifying Officer in a register maintained for the purpose, and he shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

## **13. Disputes regarding application and interpretation of Standing Orders.**

- If any question arises as to the application or interpretation of a standing order, an employer, an employee or a representative of employees may refer the question to the Labour Court having jurisdiction and the Court shall, after giving the parties an opportunity of being heard, decide the question and his decision shall be final and binding on the parties.

## **14. Recovery of money due from an employer.**

- Any sum required to be paid under this Act by an employer to an employee but not paid by him shall be recovered as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

## **15. Appointment of Inspectors and their powers and duties.**

(1)The State Government may, by notification, appoint such officers of the Labour Department not below the rank of a Deputy Labour Officer, as it may think fit, to be Inspectors for the purposes of this Act. Such notification shall define the class of undertakings in respect of which and the areas within which they shall exercise their respective jurisdictions.(2)It shall be the duty of every such Inspector to ensure within the area of his jurisdiction the proper implementation of the provisions of this Act and the rules made thereunder.(3)An Inspector may, within the area of his jurisdiction make such inquiries and collect such information from the employers and employees as he may consider necessary for the purposes of this Act.

## **16. Certain officers to be public servants.**

- An Inspector or a Certifying Officer, appointed under this Act, shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

## **17. Penalties and procedure.**

(1) If, in any undertaking to which the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960), does not apply, any employer modifies his standing orders otherwise than in accordance with the provisions of this Act, he shall be punished with fine which may extend to five thousand rupees and in case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues. (2) Any employer who does any act in contravention of standing orders shall be punished with fine which may extend to one hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues. (3) Whoever contravenes the provisions of this Act or of any rule made thereunder, in cases other than those falling under sub-section (2), shall be punished : (a) with fine which may extend to one hundred rupees and in the event of such person being previously convicted of an offence under this Act, with fine which may extend to two hundred rupees; and (b) in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues. (4) The Court convicting an employer under sub-section (1) or sub-section (2) or sub-section (3) may direct such employer to pay such compensation as it may determine to any employee directly and adversely affected by such modification or contravention, as the case may be. (5) [An offence punishable under this section shall, on a complaint made by the representative of the employees or the Inspector appointed under this Act, be triable by a Labour Court within the local limits of whose jurisdiction it was committed.] [Substituted by M.P. Act No. 64 of 1965.] (6) In trying offences under this section, the Labour Court shall exercise the same powers and follow the same procedure as in respect of offences under the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960).

## **17A. [ Summary disposal of cases. [Inserted by M.P. Act No. 18 of 1967.]**

(1) A Labour Court taking cognizance of an offence under sub-section (2) or (3) of Section 17 shall state upon the summons to be served on the accused person that he- (a) may appear by pleader and not in person; or (b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter acknowledgement due and remit to the Labour Court such sum as the Court may, subject to the maximum limit of fine prescribed for the said offence, specify. (2) Where an accused person pleads guilty and remits the sum in accordance with the provisions of sub-section (1), no further proceedings in respect of the offence shall be taken against him. (3) Nothing contained in this section shall apply to : (a) continuing offence under sub-section (2) and clause (b) of sub-section (3) of Section 17; (b) the previously convicted person under clause (a) of sub-section (3) of Section 17.]

## **18. Certifying Officer, Labour Court and Industrial Court to have powers of Civil Courts.**

- In any proceeding under this Act except in respect of an offence, Certifying Officer, the Labour Courts and the Industrial Courts shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witness and compelling the discovery and production of documents and shall be deemed to be a Civil Court within the meaning of Sections [345 and 346 of the Code of Criminal Procedure, 1973 (No. 2 of 1974).] [Substituted by M.P. Act No. 25 of 1985.]

## **19. Oral evidence in contradiction of standing orders, etc., not admissible.**

- No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders shall be admitted in any Court.

## **20. Procedure before Certifying Officer, Labour Court or Industrial Court.**

- Subject to the provisions of sub-section (6) of Section 17, Section 18 and to the rules framed under this Act, the Certifying Officer, the Labour Court or the Industrial Court shall in proceedings before him/it, follow such procedure as he/it may think fit.

## **21. Power to make rules.**

(1)The State Government may, by notification, make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the forgoing powers, such rules may-(a)provide for additional matters to be included in the Schedule;(b)frame standard standing orders for the purpose of this Act and different standard standing orders may be framed for-(i)different classes of undertakings; and(ii)different categories of employees;(c)lay down the procedure to be followed by the Certifying Officer, the Labour Court or the Industrial Court;(d)specify the fee which may be charged for furnishing copies of standing orders filed in the register under Section 12;(e)provide for any other matter which is to be or may be prescribed.(3)The rules made under this section shall be subject to the condition of previous publication in the Gazette.

## **22. Construction of references.**

- Any reference in any law for the time being in force to standing orders in relation to an undertaking to which this Act applies shall-(i)where standard standing orders have been applied to such undertaking under Section 6 of this Act be construed as a reference to such standard standing orders; and(ii)in any other case be construed as a reference to standing orders, if any, in force in respect of such undertaking.

## 23. Repeal and saving.

- The Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959 (No. XIX of 1959), is hereby repealed :Provided that any proceeding under the said Act pending on the date of the commencement of this Act may be continued and completed in accordance with the provisions of the said Act, as if this Act had not been repealed.

## Schedule

[See Sections 3 (b) and 6 (3)]Matters to be provided in standard standing ordersI. Classification of employees, e.g., whether permanent, temporary, apprentices, probationers, [badlis or fixed term employment's employee] [Substituted for 'badlis' by M.P. Notification F. No. 4(E) 2-2004-A-XVI, dated 17-3-2005.] and whether seasonal or otherwise.II. Tickets, cards, service books, registers and service certificates.III. Recruitment.IV. Manner of intimating to employees the period and hours of work, holidays, pay days and wage rates.V. Shift working.VI. Holidays, procedure and authority to grant.VII. Closing and re-opening of sections of the undertaking and temporary stoppages of work including laying off and the rights and liabilities of the employer and employees arising therefrom.VIII. Liability to search and entry into premises by certain gates.IX. Attendance and late coming.X. Leave, conditions, procedure and authority to grant.XI. Termination of employment otherwise than by way of punishment and the notice thereof to be given to the employers and employees.XII. Punishment involving warning, censure, fine and deductions in wages.XIII. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.XIV. Means of redress for employees against unfair treatment or wrongful exactions by the employer or his agents or servants.[XV. Age of retirement.] [Inserted by Notification dated 19-10-1973, published in the M.P. Gazette, Part 4 (ga), dated 2-11-1973 at pages 770-771.]Notifications[Notification No. 7788-XVI, dated 4-11-1961.] [Published in the M.P. Gazette, Part I, dated 17-11-1961 at page 1906.] - In exercise of the powers conferred by sub-section (3) of Section 1 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), the State Government hereby notifies the 25th November, 1961, as the date on which the said Act shall come into force.[Notification No. 7770-XVI.] [Published in the M.P. Rajpatra, Part I, dated 17-11-1961 at page 1906.] - In exercise of the powers conferred by sub-section (2) of Section 2 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), the State Government hereby notifies that the said Act shall not apply to employees in any undertaking to whom the following rules or regulations apply :- (i) Civilians Defence Services (Classification, Control and Appeal) Rules; (ii) The Indian Railway Establishment Code; and (iii) Any other rules or regulations which have already been notified by the Central Government under Section 13-B of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).[Notification No. 4 (e) 10-92-XVI-A (8), dated the 2-11-1992.] [Published in the M.P. Rajpatra, Part I, dated 20-11-1992 at page 3039.] - In exercise of the powers conferred by Section 3 (a) of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), and in supersession of the previous Notification No. 4 (E)-8-86-XVI-A, dated 21st June, 1986, the State Government hereby appoints Shri G.R. Mahajan, Deputy Labour Commissioner (Head Quarter) Indore as the Certifying Officer for the whole of the State of Madhya Pradesh.[Notification No. 4747-2130-XVI-A, dated 8-8-1980.] [Published in the M.P. Rajpatra, Part 4 (Ga), dated 5-9-1980 at page 2223.] - In exercise of the powers conferred by sub-section (1) of Section 6 of the M.P.

Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961) and in supersession of all notifications issued in this behalf previously, the State Government hereby applies, with effect from the date of publication of this notification in the Madhya Pradesh Gazette, the Standard Standing Orders to all undertakings to which the said Act applies.[Notification No. 8087-8553-XVI.]

[Published in the M.P. Rajpatra, Part I, dated 20-12-1963 at page 3439.] - In exercise of the powers conferred by Section 15 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), and in supersession of this Department Notification No. 4918-3899-XVI, dated the 10th July, 1963, the State Government hereby appoints the officers mentioned in column (1) of the Table below to be the Inspectors for purposes of the said section and further directs that they shall exercise their respective jurisdiction in respect of all classes of undertakings to which the standing orders are applicable under sub-section (1) of Section 6 of the said Act and within the areas specified in the corresponding entries in column (2) of the said Table.

Officers	Area
Deputy Labour Commissioner	All revenue districts of Madhya Pradesh.
Assistant Labour Commissioner	All revenue districts of Madhya Pradesh.
Labour Officer	All revenue districts of Madhya Pradesh.
Deputy Labour Officer	All revenue districts of Madhya Pradesh.