

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

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THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

(Act No. 20 of 1946) ¹

[23rd April 1946]

An Act to require employers in industrial establishments formally to define conditions of employment under them.

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

STATE AMENDMENTS

MAHARASHTRA: GUJARAT. –

(i) Substitute for the long title, the following title as under:

“An Act to provide for rules defining with sufficient precision certain conditions of employment in industrial establishments in the State of Bombay. -Bombay Act M of 1958, Sec. 2 (15th January, 1959); and further amended by Act YJ of 1960, Sec. 87 (1st May, 1960).

(ii) In the preamble, for the words, beginning with the words “to require” and ending with the words “by them”, substitute ‘the words “to provide for defining with sufficient precision certain conditions of employment in industrial establishments in the State of Bombay, and for certain other matters”. -Bombay Act M of 1958, Sec. 3 (15th January, 1959).

(iii) Nothing in the Industrial Employment (Standing Orders) (Bombay Amendment) Act, -1957 (Bombay Act XXI-of 1958), shall be deemed to affect any industrial establishment in respect of which the appropriate Government is the Central Government. - Bombay Act M of 1958, sec. 21.

MADHYA PRADESH. -”4. Nothing in the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), shall apply to any undertaken to which this Act applies”. - M. P. Act XXVI of 1961, Sec. 4 (25th November, 1961).

1. For Statement of Objects and Reasons, see *Gazette of India*, 1946, Pt. V. pp. 179, 180.

The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, Sec. 3 and Schedule, to Pondicherry. (w.e.f. 1st October, 1963) by Reg. 7 of 1963, Sec. 3 and Sch. I and to Laccadive, Minicoy and Amindivi islands (w.e.f. 1st October, 1967) by Reg. 8 of 1965, Sec. 3 and Schedule.

1. Short title, extent and application. –

(1) This act may be called the Industrial Employment (Standing Orders) Act, 1946.

(2) It extends to ¹[the whole of India ²[***].

³[(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months :

Provided that the appropriate Government may, after giving not less than two month's notice of its intention so to do, by notification in the official Gazette, apply the provision of this Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.]

⁴[* * * *]

⁵[(4) Nothing in this Act shall apply to. –

(i) Any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (Bombay Act II of 1947) apply; or

(ii) Any Industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961 apply:

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act, 26 of 1961), the provision of this Act shall apply to all industrial establishments under the control of the Central Government.]

STATE AMENDMENTS

KARNATKA. –In sec. 1, in its application to the State of Karnataka, for the words “one hundred” occurring in sub-section (3) and in the proviso to it, the word “fifty” shall be substituted. – Karnataka Act 37 of 1975 (11th July, 1977).

MAHARASHTRA: GUJARAT. – In sub-section (3), for the words “one hundred”, substitute: fifty”. – Bombay Act XXI of 1958, Sec. 4 (15th January, 1959), and Act XI of 1960, Sec, 87 (1st May, 1960).

1. **Subs. by the A.O. 1950, for “all the provinces of India”.**
2. **The words “except the state of Jammu and Kashmir” omitted Act 51 of 1970, sec. 2 and Schedule (w.e.f. 1st September , 1971).**
3. **Subs. by Act 16 of 1961, sec. 2 for sub section (3).**
4. **Second proviso omitted by Act 39 of 1963, Sec. 2 (w.e.f. 23rd December, 1963).**
5. **Ins. by Sec. 2 ibid.(w.e.f. 23rd December , 1963).**

2. **Interpretation .** –In this Act, unless there is anything repugnant in the subject or context. -

¹[(a) “Appellate authority” means an authority appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of appellate authority under this Act:

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) (Amendment) Act, 1963 (39 of 1963), that Court or authority shall be deemed to be the appellate authority;]

(b) “Appropriate Government” means in respect of industrial establishments under the control of the Central Government or a ² [Railway Administration] or in a major port, mine or oilfield, the Central Government, and in all other cases, the State Government:

³[Provided that where any question arises as to whether any industrial establishment is under the control of the Central Government, that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties;

⁴[(c) “Certifying Officer” means a Labour Commissioner or a Regional. Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the official Gazette, to perform all or any of the functions of a certifying officer under this Act;]

(d) “Employer” means the owner of an industrial establishment to which this Act for the time being

applies, and includes-

- (i) In a factory, any person named under ⁵[Cl. (t) of sub- section (1) of Sec. 7 of the Factories Act, 1948 (63 of 1948)] as manager of the factory;
- (ii) In any industrial establishment under the control of any department of any Government of India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of department;
- (iii) In any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;
- (e) “Industrial establishment” means. -
 - (i) An industrial establishment as defined in Cl. (ii) of Sec. 2 of the Payment of Wages Act, 1936 (4 of 1936), or
 - ⁶[(ii) A factory as defined in Cl. (m) of Sec. 2 of the Factories Act, 1948 (63 of 1948), or]
 - (iii) A railway as defined in Cl. (4) of Sec. 2 of the Indian Railways Act, 1890 (9 of 1890), or
 - (iv) The establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;
- (f) “Prescribed” means prescribed by rules made by the appropriate Government under this Act;
- (g) “Standing orders” means rules relating to matters set out in the Schedule;
- (h) “Trade union” means a trade union for the time being registered under the Indian Trade Unions

Act, 1926 (16 of 1926);

⁷ [(i) “Wages” and “workman” have the meanings, respectively assigned to them in Cls. (rr) and (s) of Sec. 2 of the Industrial Disputes Act, 1947 (14 of 1947).

STATE AMENDMENTS

ANDHRA PRADESH. -In Cl. (e) of Sec. 2, after sub-clause (iv), add the following:

Or

(v) Such other establishment, as the State Government may, by notification in the Andhra Pradesh Gazette, specify in this behalf, which does not fall within any of sub-clauses (O to (iv) and in respect of which the State Government is the appropriate Government”-A. P. Act IX of 1969, Sec. 2 (31st January, 1969).

GUJARAT: MAHARASHTRA. -In Sec. 2, -

(i) Before Cl. (a), add the following new clause:

“(1-A) ‘amendments’ means in relation to the model standing orders, any amendments proposed to such orders under Sec. 3 and includes any alterations, variations or additions proposed thereto.”

(ii) In Cl. (d), for sub-clause (iii), substitute the following:

(iii) In any other industrial establishment, -

(a) Any person responsible to the owner for the supervision and control of the industrial establishment;

(b) Where a person who, for the purpose of fulfilling a contract with the owner of the industrial establishment employs workmen on the premises of the establishment for the execution of the whole or

any part of any work which is ordinarily part of such establishment, then in relation to such workmen, the owner of the industrial establishment;

(iii) In Cl. (e) omit sub-clause (iv)

(iv) After Cl. (e), add the following new clauses

(ee) “Model standing order” means standing orders prescribed under Sec. 15;

(ef) “Modification” includes in relation to a standing order, any alteration, variation, addition or deletion in or to, such order Bombay Act XXI of 1958, Sec. 5 (15th January, 1959), and further amended by Act 11 of 1960, Sec. 87 (1st May, 1960)”

(v) The following as new Sec. 2-A shall be added:

1. Subs. by Act 39 of 1963, Sec. 3, for Cl. (ct) (w.e.f. 23rd December, 1963).
2. Subs. by the A.O. 1950, “for Federal Railway”.
3. Added by Act. 18 of 1982, Sec. 2 (w.e.f 17th May, 1982).
4. Subs. by Act 16 of 1961, Sec. 3, for Cl. (c).
5. Subs. by *ibid.*, Sec. 3, for “Cl. (e) of sub-section (1) of Sec. 9 of the Factories Act, 1934 5 of 19341”.
6. Subs. by *ibid.*, Sec. 3, for sub-clause (ii).
7. Subs by Act 18 of 1982, Sec. 2 (b) (w.e.f. 17th May, 1982).

“2-A. Application of *model* standing orders to every industrial establishment . –

(1) Where this Act applies to an industrial establishment, the model standing orders for every matter set out in the Schedule applicable to such establishment from such date as the State Government may by notification in the official Gazette appoint in this behalf :

Provided that nothing in this section shall be deemed to affect any standing orders which are finally certified under this Act and have come into operation under this Act in respect of any industrial establishment before the date of coming into force of the Industrial Employment (Standing Orders) (Bombay Amendment) Act, 1957. - Bombay Act XXI of 1958, Sec. 2.

(2) Notwithstanding anything contained in the proviso to sub-section (1), model standing orders made in respect of additional matters included in the Schedule after the coming into force of the Act referred to in that proviso (being additional matters relating probationers or badlis or temporary or casual workmen) shall, unless such model standing orders are in the opinion of certifying officer less advantageous to them than the corresponding standing orders applicable to them, then under the said proviso also apply in relation to such workmen in the establishments referred to in the said proviso from such date as the State Government may by notification in the official Gazette, appoint in this behalf” -Maharashtra Act LIV of 1974, Sec. 2 (21st November, 1974) (w.e.f. 2-10-1977).

TAMIL NADU. -In Cl. (c) of Sec. 2, insert the following proviso

“Provided that the State Government may, in relation to industrial establishment in respect of which it is the appropriate Government, appoint, by notification in the official Gazette, any officer subordinate to the Labour Commissioner to exercise in such area as may be specified in the notification, the functions of a certifying officer under this Act, and any officer appointed as aforesaid may exercise those functions, whether or not the Labour Commissioner is absent”-Madras Act XXIV of 1960, Sec. 2 (2nd November, 1960).

3. Submission of Draft Standing Orders. -

(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be, accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

STATE AMENDMENT

MAHARASHTRA : GUJARAT. –

(i) For sub-section (1), substitute the following:

“(1) Within six months from the date on which the model standing orders apply to any industrial establishment under Sec. 2-A, the employer or any workman employed therein may submit to the Certifying Officer five copies of the draft amendment for adoption in such industrial establishment:

Provided that no amendment which provides for the deletion or omission of any rule in the model standing orders relating to any matter set out in the Schedule shall be submitted under this section,”

(ii) Omit sub-section (2) :

(iii) In sub-section (3), for the words “draft standing orders” substitute “draft amendments”;

(iv) In sub-section (4), for the words “draft of standing orders”, substitute “draft of amendments”;

(v) For the marginal note, substitute the following marginal note: “Submission of amendments”-Bombay Act XXI of 1958, Sec. 7 (15th January, 1959); Act XI of 1960, Sec. 87 (1st May, 1960).

4. Conditions for certification of Standing Orders. -Standing orders shall be certifiable under this Act, if-

(a) Provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

- (b) The standing orders are otherwise in conformity with the provisions of this Act;

And it ¹[shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

STATE AMENDMENT

MAHARASHTRA : GUJARAT. -For its application, delete Sec. 4,-Bombay Act, XXI of 1958, Sec. 8 (15th January, 1959) ; Act YJ of 1960, Sec. 87 (1st May, 1960).

1. Subs. by Act 36 of 1956, Sec. 32, for “shall not be the function” (w.e.f. 17th September, 1956).

5. Certification of Standing Orders. -

(1) On receipt of the draft under Sec. 3, Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary orders certifiable under this Act, and shall make an order in writing accordingly

(3) The Certifying officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) of the certified may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

- (i) In Sub-section (1), -
 - (a) After the words “as may be prescribed”, add “or the employer, as the case may be”, and after the word “workmen” where it occurs for the third time, add “or employer”;
 - (b) For the words “draft standing orders”, substitute “draft amendments”.
- (ii) In sub-section (2), -
 - (a) After the words “giving the employer”, add, “the workmen submitting the amendment”;
 - (b) Omit the words “or addition to”;
 - (c) For the words “the draft submitted by the employer is necessary, to render the draft standing orders certifiable under this Act”, substitute “the draft submitted under subsection (1) of Sec. 3 is necessary”.
- (iii) In sub-section (3),
 - (a) For the words “certify draft standing orders”, substitute “certify the draft amendments”;
 - (b) For the words “certified standing orders” substitute “model standing order together with copies of the certified amendments thereof.
- (iv) In the marginal note, for the words “standing orders” substitute the word “amendments” .
-Bombay Act XXI of 1958, Sec. 9 (15th January, 1959); Act XI of 1960, Sec. 87 (1st May, 1960).

6. Appeals. –

(1) ¹[Any employer, workman, trade union or other prescribed representatives of any workman] aggrieved by the order of the Certifying Officer under sub-section (2) of Sec. 5 may, within ²[thirty days] from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

(i) In sub-section (1) of Sec. 6, for the portion beginning with the words “confirm the standing orders” and ending with 9 certifiable under this Act”, substitute the following:

“Confirm the amendment either in the form certified by the Certifying Officer or after further modifying the same as the appellate authority thinks necessary”.

(ii) In sub-section (2),

(a) For the words “unless it has confirmed without amendment the standing orders”, substitute “unless it has confirmed without further modifications the amendments”;

(b) For the words “by copies of the standing orders”, substitute “by copies of the model standing

orders together with the amendments “, -Bombay Act XI of 1958, Sec. 10 (15th January, 1959), Act XI of 1960, Sec. 87 (1st May, 1960)

1. Subs. by Act 18 of 1982, Sec. 3 (w.e.f. 17th May, 1982).

2. Subs. by Act 16 of 1961, Sec. 4, for “twenty-one days”.

7. Date of operation of Standing Orders. -Standing orders shall, unless an appeal is preferred under Sec. 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of Sec. 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of Sec. 6.

STATE AMENDMENTS

MAHARASHTRA: GUJARAT. -In Sec. 7 and in the marginal note thereto after the words “standing orders”, add the words “or amendments”. -Bombay Act XXI of 1958, Sec. 11 (15th January, 1959), Act YJ of 1960, Sec. 87 (1st May, 1960).

SAURASHTRA: GUJRAT. -In its application the Saurashtra area of the State of Bombay, in Sec. 7, sub-section (2), inserted by the Industrial Employment (Standing Orders) (Saurashtra Amendment) Act, 1953, shall be deleted, and Sec. 7 (1) shall be renumbered as Sec. 7 of the said Act:

Provided that any model standing orders in respect of any industrial establishment referred to in the said sub-section (2) of Sec. 7 deleted as aforesaid, and in operation on the date of the coming into force of this Act, shall be deemed to be the model standing orders prescribed under Sec. 15 of the said Act and applied to the industrial establishment under Sec. 2-A, and the provisions of the said Act shall apply thereto as they apply to the model standing orders duly applied under the said Sec. 2-A.-Bombay Act XXI of 1958, Sec. 20 (15th January, 1959) ; Act XI of 1960, Sec. 87 (15th May, 1960).

8. Register of Standing Orders. -A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

- (i) After the words “all standing orders”, add the words “or model standing orders together with all the amendments” ;
- (ii) In the marginal note, after the words “standing orders”, add “and model standing orders together with all certified amendments”.-Bombay Act XXI of 1958, Sec. 13 (15th January, 1959) ; Act XI of 1960, Sec. 87 (1st May, 1960).

9. Posting of Standing Orders. -The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

- (i) After the words “all standing orders”, add the words “or model standing orders together with all the amendments” ;
- (ii) In the marginal note, after the words “standing orders”, add the words “and model standing orders together with all certified amendments”.-Bombay Act XXI of 1958, Sec. 13 (15th January, 1959) ; Act XI of 1960, Sec. 87 (1st May, 1960).

10. Duration and modification of Standing Orders. –

- (1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen¹[or a trade union or other representative body of the workmen] be liable to modification until the expiry of six months from the date on which the standing orders or the last

modifications thereof came into operation.

²[(2) Subject to the provisions of sub-section (1), an employer or workman ³[or a trade union or other representative body of the workmen) may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five Copies Of ⁴[* * *] the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen ³[or a trade union or other representative body of the workmen] a certified copy of that agreement shall be filed along with the application.]

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (1) as they apply to the certification of the first standing orders.

⁵[(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.

STATE AMENDMENTS

MAHARASHTRA : *GUJARAT*. –

(i) In sub-section (1), -

(a) After the words “standing orders” at both the places where they occur, add the words “or model standing orders together with all the amendments”;

(b) After the words “came into operation”, insert the following:

“And where model standing orders have not been amended as aforesaid, the model standing orders shall not be liable to such modification until the expiry of one year from the date on which they were applied under Sec. 2-A”;

(ii) For sub-section (2), substitute the following:

“(2) Subject to the provisions of sub-section (1), an employer, workman or any prescribed representatives of workmen desiring to modify the standing orders or the model standing orders together with the amendments, as finally certified under this Act, or the model standing orders applied under Sec.2-A, as the case may be, shall make an application to the Certifying Officer in that behalf, and such application shall be accompanied by five copies of the standing orders, or the model standing orders, together with all amendments thereto as certified under this Act or model standing orders in which shall be indicated the modifications proposed to be made and where such modifications are proposed to be made by agreement between the employer and workmen, a certified copy of the agreement shall be filed along with the application”. -Bombay Act XXI of 1958, Sec. 14 (15th January, 1959), Act M of 1960, Sec. 87 (1st May, 1960).

1. **Ins. by Act 18 of 1982, Sec. 4 (a) (w.e.f 17th May, 1982).**
2. **Subs. by Act 36 of 1456, Sec. 32, for the original sub-section (w.e.f. 17th September, 1956).**
3. **Ins. by Act 18 of 1982, Sec. 4 (b) (w.e.f. 17th May, 1982).**
4. **The words “the standing orders in which shall be indicated” omitted by Act 39 of 1963, Sec. 4 (w.e.f 23rd December, 1963).**
5. **Ins. by Act 39 of 1963, Sec. 4 (w.e.f. 23rd December, 1963).**

MAHARASHTRA AND GUJARAT STATES. -In this section, -

(a) In sub-section (1):

(i) After the words “standing orders” at both the places where they occur, the words “or the amendments” shall be inserted ;

(ii) After the words “came into operation”, the following shall be inserted, namely: “and where model standing orders have not been amended as aforesaid, the model standing orders shall not be liable to such modification until the expiry of one year from the date on which they were applied under Sec. 2-A”;

(b) For sub-section (2), the following shall be substituted, namely:

“(2) Subject to the provisions of sub-section (1) an employer, workman or any prescribed representatives of workmen desiring to modify the standing orders or the model standing orders together with the

amendments as finally certified under this Act, or model standing orders applied under Sec. 2-A, as the case may be, shall make an application to the Certifying Officer in that behalf and such application shall be accompanied by five copies of the standing orders or the model standing orders together with all amendments thereto as certified under this Act or model standing orders in which shall be indicated the modifications proposed to be made and where such modifications are proposed to be made by agreement between the employers, a certified copy of the agreement shall be filed along with the application” ;

(c) In sub-section (3), for the words “standing orders”, the word “amendments” shall be substituted.-Bombay Act XXI of 1958.

(d) In sub-section (4), the words “or the Government of the State of Maharashtra” shall be deleted.-Maharashtra Act No. LIV of 1974, Sec. 3 (21st November, 1974).

¹[10-A. Payment of subsistence allowance. –

(1) Where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance. -

(a) At the rate of fifty percent of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension ; and

(b) At the rate of seventy-five per cent. of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under subsection (1), the workman or the employer concerned may refer the dispute to the Labour Court constituted under the Industrial Disputes Act, 1947 (14 of 1947) within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labour Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Notwithstanding anything contained in the foregoing provisions of this section, where provisions relating to payment of subsistence allowance under any other law for the time being in force in any State

are more beneficial than the provisions of this section, the provisions of such other law shall be applicable to the payment of subsistence allowance in that State].

1. Ins. by Act 18 of 1982, Sec. 5 (w.e.f 17th May, 1982).

11. Certifying officer and appellate to have powers of Civil Court. –

¹ [(1)] Every Certifying officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of ²[Secs. 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)].

¹[(2)] Clerical or arithmetical mistakes in any order passed by a Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that officer or authority, or the successor in office of such officer or authority, as the case may be].

1. Section 11 re-numbered as sub-section (1) thereof and sub-section (2) ins. by Act 39 of 1963, Sec. 5 (w.e.f. 23rd December, 1963).

2. Subs. by Act 18 of 1982, Sec 6 (w.e.f. 17th May, 1982).

12. Oral evidence In contradiction of Standing Orders not admissible. -No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

STATE AMENDMENT

MAHARASHTRA : GUJARAT. -

(i) For the words “standing orders as finally certified under this Act” substitute the words “standing orders or the model standing orders with all the amendments as finally certified under this Act, as the case may be”;

(ii) In the marginal note, for the words “standing orders”, substitute standing order”, etc.-Bombay Act XXI of 1958, Sec. 15 (15th January, 1959) ; Act XI of 1960, Sec. 87 (1st May, 1960).

¹[12-A. Temporary application of Model Standing Orders. -

(1) Notwithstanding anything contained in Sees. 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the 9th standing orders as finally certified under this Act come into operation under Sec. 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of Sec. 9, sub- section (2) of Sec. 13 and Sec. 13-A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or ‘the Government of the State of Maharashtra.]

1. Ins. by act 39 of 1963, Sec. 6 (w.e.f. 23rd December, 1963).

13. Penalties and procedure. –

(1) An employer who fails to submit draft standing orders as required by Sec. 3, or who modifies his standing orders otherwise than in accordance with Sec. 10, shall be punishable with fine which may extend to five thousand rupees, and in the 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) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable 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) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of ¹[a Metropolitan Magistrate or Judicial Magistrate of the second class]

shall try any offence under this section.

1. Subs. by Act 18 of 1982, Sec. 7 (w.e.f 17th May, 1982).

STATE AMENDMENTS

MADHYA PRADESH. -After sub-section (4), add the following sub-section:

“(5) A Court taking cognizance of an offence under sub-section (2) shall state upon the summons to be served on the accused person that he. -

(a) May appeal 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 acknowledgment due and remit to the Court such sum as the Court may, subject to the maximum limit of fine prescribed for the said offence, specify.

“(6) Where an accused person pleads guilty and remits the sum in accordance with the provisions of sub-section (5), no further proceedings in respect of the offence shall be taken against him.

“(7) Nothing contained in this section shall apply to the continuing offence referred to in sub-section (2).”-M.P. Act XVIII of 1967, Sec. 2 (1st June, 1968).

MAHARASHTRA: GUJARAT. –

(i) In sub-section (1),-

(a) For the words and figure “who fails to submit draft standing orders as required by Sec. 3, or who modifies his standing orders”, substitute the words “who modifies the standing orders, model standing orders or amendments”;

- (b) For the word and figures “Sec. 10”, substitute the words “the provisions of this Act”;
- (c) For the words “shall be punishable”, substitute the words “shall, on conviction, be punished”.

(ii) In sub-section (2), for the words “the standing orders finally certified under this Act for his industrial establishment shall be punishable,” substitute the words “the standing orders, model standing orders or the amendments, as finally certified under this Act for his industrial establishment, as the case may be, shall, on conviction, be punished.”

(iii) After sub-section (2), add the following new sub-sections

“(2-A) Whoever contravenes the provisions of this Act or of any rule made thereunder in cases other than those falling under sub-section (1) or sub-section (2), shall, on conviction, be punished 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 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.

(2-B) The Court convicting an employer under sub-section (1) or sub-section (2) may direct such employer to pay such compensation as it may determine to any workman directly and adversely affected by the modifications or contravention of the standing orders, model standing orders or amendments, as the case may be.

(2-C) The compensation awarded under sub-section (2-B) may be recovered as if it were a fine and if it cannot be so recovered, the person by whom it is payable shall be sentenced to imprisonment of either description for a term not exceeding three months as the Court thinks fit.-Bombay Act XXI of 1958, Sec. 16 (15th January, 1959) ; Act XI of 1960, Sec. 87 (1st May, 1960).

¹ [13-A. Interpretation, etc. of Standing Orders . –If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workmen ²[or a trade union or other representative body of the workmen] may refer the question to any one of the labour Courts constituted under the Industrial Disputes Act, 1947 (14 of 1947), and specified for the disposal of such proceedings by the appropriate Government by notification in the official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such Decision shall be final and binding on the parties.]

STATE AMENDMENT

MAHARASHTRA : GUJARAT. -In this section, after the words “standing order” and in the marginal note thereto after the words “standing orders”, add the words “model standing orders or amendments” ; and after the word workman” add “or any prescribed representatives of workmen”. -Bombay Act XXI of 1958, Sec. 17 (15th January, 1959), Act)U of 1960, Sec. 87 (1st May, 1960).

1. **Ins. by Act 36 of 1956, Sec.32 (w.e.f. 10th March, 1957).**

2. **Ins. by Act 18 of 1982, Sec.8 (w.e.f. 17th May, 1982).**

1[13-B. Act not to apply to certain Industrial establishments. - Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil “Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the official Gazette, apply.]

1. **Ins. by Act 18 of 1982, Sec.8 (w.e.f. 17th May, 1982).**

14. Power to exempt. -The appropriate Government may, by notification in the official Gazette, exempt conditionally or unconditionally, any industrial establishment or class of industrial establishment from all or any of the provisions of this Act.

1[14-A. Delegation of powers. -The appropriate Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also-

(a) Where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification ;

(b) Where the appropriate Government is a State Government, by such officer or authority

subordinate to the State Government as may be specified in the notification.]

1. Subs. by Act 39 of 1963, Sec. 7, for Sec. 14-A (w.e.f. 23rd December, 1963).

15. Power to make rules. –

- (1) The appropriate Government may, after previous publication, by notification, in the official Gazette, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may-
 - (a) Prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition ;
 - (b) Set out model standing orders for the purposes of this Act
 - (c) Prescribe the procedure of Certifying Officers and appellate authorities;
 - (d) Prescribe the fee, which may be charged for copies of standing orders entered in the register of standing orders ;
 - (e) Provide for any other matter, which is to be or may be prescribed

Provided that before any rules are made under Cl. (a) representatives of both employers and workmen shall be consulted by the appropriate Government,

¹[(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or ²[in two or more successive sessions, and, if, before the expiry of the session immediately following the session or the successive sessions aforesaid) both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however

that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. **Ins. by Act 16 of 1961, Sec. 6.**
2. **Subs. by Act 18 of 1982, Sec. 9 (w.e.f. 17th May, 1982).**

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

- (a) In Cl. (a) of sub-section (2), after the words standing orders”, add the words “or amendments” ;
- (b) In Cl. (d) of sub-section (2), for the words “copies of standing orders entered in the register of standing orders”, substitute “copies of standing orders or model standing orders together with all the amendments filed in the register under Sec. 8. “. -Bombay Act XXI of 1958, Sec. 18 (15th January, 1959): Act YJ of 1960, Sec. 87 (1st May, 1960).

THE SCHEDULE

[See Secs. 2 (g) and 3 (2)]

MATTERS TO BE PROVIDED IN STANDING ORDER UNDER THIS ACT

1. Classification of workmen, e.g. whether permanent, temporary, apprentices, probationers, or badlis.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.

4. Attendance and late coming.
5. Conditions of procedure in applying for, and the authority which may grant, leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. 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.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions, which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter, which may be prescribed.

STATE AMENDMENT

MAHARASHTRA: GUJARAT. –

- (i) In the heading of the Schedule-
 - (a) For “Secs. 2 (g) and 3 (2),” substitute the word, figure and letter “Sec. 2-A”.
 - (b) After the words “standing orders”, add the words “model standing order and amendments”.
- (ii) After item I 0, add the following new items:

“10-A. Age for retirement or Superannuation”. -Bombay Act XXI of 1958, Sec. 19 (15th January, 1959); Act of 1960, Sec. 87 (1st May, 1960).

“10-B. Employment or re-employment of probationers or badlis or temporary or casual workmen, and their conditions of service. “Maharashtra Act XLIV of 1974, Sec. 4 (21st November, 1974).