

SCHEDULE I

MODEL STANDING ORDERS IN RESPECT OF INDUSTRIAL ESTABLISHMENTS NOT BEING INDUSTRIAL ESTABLISHMENTS IN COAL MINES

1. These orders shall come into force on.....

2. Classification of workmen.--(a) Workmen shall be classified as --

(1) Permanent,

(2) probationers,

(3) badlis,

(4) temporary,

(5) Casual,

(6) Apprentices.

(b) A "permanent workman" is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary workman" is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "casual workman" is a workman whose employment is of a casual nature.

(g) An "apprentice" is a learner who is paid an allowance during the period of his training.

3. Tickets.

(1) Every workman shall be given a permanent ticket unless he is a probationer, badli, temporary worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorized by the manager to inspect it.

(3) Every badli shall be provided with the badli card on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a 'temporary' ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a "casual" card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with an 'apprentice' card, which shall be surrendered if he obtains permanent employment

4. Publication of working time.

The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workman employed in the establishment on notice-boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

5. Publication of holidays and pay-days. - Notices specifying (a) the days observed by the establishment as holidays, and (b) pay-days shall be pasted on the said notice-boards.

6. Publication of wage rates.—Notices' specifying the rates of wages payable to all classes of workman and for all classes of work shall be displayed on the said notice-boards.

7. Shift working.--More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without two months' notice being given in writing to the workmen prior to such discontinuance; provided that no such notice shall be necessary if the closing of the shift is under agreement with the workmen affected. If as a result of the discontinuance of the shift working, any workmen are to be retrenched, such retrenchment shall be effected, in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947) ,and the rules made there under. If shift working is restarted, the workmen shall be given notice and re-employed in accordance with the provisions of the said Act and the said rules.

[7-A. Notice of changes in shift working.--Any notice of discontinuance or of re-starting of a shift working required by Standing Order 7 shall be in the form appended to these orders and shall be served in the following manner, namely :

The notice shall be displayed conspicuously by the employer on a notice-board at the main entrance to the establishment:

Provided that where any registered trade union of workmen exists, a copy of the notice shall also be served by registered post on the Secretary of such union.

8. Attendance and late coming. All workmen shall be at work at the time fixed and notified under Paragraph

4. Workmen attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936.

NOTE. - All workmen shall have to do the work in establishment at the time fixed and notified under Para 4. There is a provision for deduction in the payment if someone becomes late according to the Payment of Wages Act. 1936.

9. Leave.

(1) Holidays with pay will be allowed as provided for in Chapter VIII of the Factories Act, 1948, and other holidays in accordance with law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the employer or any other officer of the industrial establishment specified in this behalf by the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or post postponement and the reasons there for shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the employer or the officer specified in this behalf by the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave and (b) explains to the satisfaction of the employer or the officer specified in this behalf by the employer, his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the badly list.

10. Casual leave. - A workman may be granted casual leave of absence with or without pay not exceeding 10 days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken, but when this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence from and of the probable duration of such absence.

11. Payment of wages. (1) Any wages, due to the workmen but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice-boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

12. Stoppage of work. (1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power-supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice-board in the department concerned, and at the office of the employer and at the time-keeper's office, if any, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppage. Whenever practicable, reasonable notice shall be given of resumption of normal work.

(3) In case where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of unemployment shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice-board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

13. Termination of employment.

(1) For terminating employment of permanent workmen, notice in writing shall be given either by the employer or the workmen - one month's notice in the case of monthly-rated workmen and two weeks' notice in the case of other workmen: one month's or two week's pay, as the case may be, may be paid in lieu of notice.

(2) No temporary workman whether monthly-rated, weekly-rated or piece-rated and no probationer or badli shall be entitled to any notice or pay in lieu thereof if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in Paragraph 14.

(3) Where the employment of any workmen is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

14. Disciplinary action for misconduct. (1) A workman may be fined up to two per cent of his wages in a month for the following acts and omissions, namely:

.....
.....

Note: - Specify the acts and omissions which the employer may notify with the previous approval of the.....Government or of the prescribed authority in pursuance of section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct.

(a) willful in subordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior,

(b) theft, fraud or dishonesty in connection with the employer's business or property,

(c) willful damage to or loss of employer's goods or property,

(d) taking or giving bribes or any illegal gratification,

(e) habitual absence without leave or absence without leave for more than 10 days,

(f) habitual late attendance,

(g) habitual breach of any law applicable to the establishment,

(h) riotous or disorderly behaviors during working hours at the establishment or any act subversive of discipline,

(i) habitual negligence or neglect of work,

(j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent of the wages in a month.

(k) striking work or inciting others to strike work in contravention of the provision of any law, or rule having the force of law.

(4)

(a) Where a disciplinary proceeding against a workman is contemplated or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the employer is satisfied that it is necessary or desirable to place the workman under suspension, he may, by order in writing suspend him with effect from such date as may be specified in the order. A statement setting out in detail the reasons for such suspension shall be supplied to the workman within a week from the date of suspension.

(b) A workman who is placed under suspension under Cl. (a) shall, during the period of such suspension, be paid a subsistence allowance at the following rates, namely:

(i) Where the enquiry contemplated or pending is departmental, the subsistence allowance shall, for the first ninety days from the date of suspension, be equal to one-half of the basic wages, dearness allowance and other compensatory allowances to which the workmen would have been entitled if he were on leave with wages. If the departmental enquiry gets prolonged and the workman continues to be under suspension for a period exceeding ninety days, the subsistence allowance shall for such period be equal to three-fourths of such basic wages dearness allowance and other compensatory allowances:

Provided that where such enquiry is prolonged beyond a period of ninety days for reasons directly attributable to the workman, the subsistence allowance shall, for the period exceeding ninety days, be reduced to one-fourth of such basic wages, dearness allowance and other compensatory allowances.

(ii) Where the enquiry is by an outside agency or, as the case may be, where criminal proceedings against workman are under investigation or trial, the subsistence allowance shall, for the first one hundred and eighty days from the date of suspension, be equal to one half of his basic wages, dearness allowance and other compensatory allowances to which the workman would have been entitled to if he was on leave. If such enquiry or criminal proceedings gets prolonged and the workman continues to be under suspension for a period exceeding one hundred and eighty days, the subsistence allowance shall for such period be equal to three-fourths of such wages:

Provided that where such enquiry or criminal proceeding is prolonged beyond a period of one hundred and eighty days for reasons directly attributable to the workman, the subsistence allowance shall, for the period exceeding one hundred and eighty days, be reduced to one-fourth of such wages.

(b-a) In the enquiry, the workman shall be entitled to appear in person or to be represented by an office-bearer of a trade union of which he is a member.

(b-b) The proceedings of the enquiry shall be recorded in Hindi or in English, the language of the State where the industrial establishment is located, whichever is preferred by the workman.

(b-c) The proceedings of the inquiry shall be completed within a period of three months:

Provided that the period of three months may, for reasons to be recorded in writing, be extended by such further period as may be deemed necessary by the inquiry officer.]

(c) If on the conclusion of the enquiry or, as the case may be, of the criminal proceedings, the workman has been found guilty of the charges framed against him and it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed, that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall pass an order accordingly:

Provided that when an order of dismissal is passed under this clause, the workman shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period, and the subsistence allowance already paid to him shall not be recovered:

Provided further that where the period between the date on which the workman was suspended from duty pending the inquiry or investigation or trial and the date on which an order of suspension was passed under this clause exceeds four days, the workman shall be deemed to have been suspended only for four days or for such shorter period as is specified in the said order of suspension and for the remaining period he shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period :

Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period:

Provided also that in the case of a workman to whom the provisions of clause (2) of Article 311 of the Constitution apply, the provisions of that article shall be complied with.

(d) If on the conclusion of the inquiry, or as the case may be, or the criminal proceedings, the workman has been found to be not guilty of any of the charges framed against him, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension after deducting the subsistence allowance paid to him for such period.

(e) The payment of subsistence allowance under this standing order shall be subject to the workman concerned not taking up any employment during the period of suspension.

(5) In awarding punishment under this standing order, the authority imposing the punishment shall take into account any gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the authority imposing the punishment shall be supplied to the workman concerned.

(6) (a) A workman aggrieved by an order imposing punishment may within twenty-one days from the date of receipt of the order, appeal to the appellate authority.

(b) The employer shall, for the purposes of Cl. (a) specify the appellate authority.

(c) The appellate authority, after giving an opportunity to the workman of being heard shall pass order as he thinks proper on the appeal within fifteen days of its receipt and communicate the same to the workman in writing.

15. Complaints. - All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer.

16. Certificate on termination of service.--Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

NOTE. There is a provision under this Act for issuing a service certificate at the time of dismissal, discharge or retirement and every person is entitled to take such certificate.

17. Liability of employer.- The employer of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

17-A. (1) Any person desiring to prefer an appeal in pursuance of sub-section (1) of Section 6 of the Act shall draw up a memorandum of appeal setting out the ground of appeal and forward it in quintuplicate to the appellate authority accompanied by a Certified copy of the standing orders, amendments or modifications, as the case may be.

(2) The appellate authority shall, after giving the appellant an opportunity of being heard, confirm the standing orders, amendments or modifications as certified by the certifying officer unless it considers that there are reasons for giving the other parties to the proceedings a hearing before a final decision is made in the appeal.

(3) Where the appellate authority does not confirm the standing orders, amendments or modifications it shall fix a date for the hearing of the appeal and direct notice thereof to be given—

(a) where the appeal is filed by the employer or a workman, to trade unions of the workmen of the industrial establishments, and where there are no such trade unions to the representatives of workman elected under Cl. (b) of rule 6, or as the case may be, to the employer ;

(b) where the appeal is filed by a trade union to the employer and all other trade unions of the workmen of the industrial establishment ;

(c) where the appeal is filed by the representatives of the workmen, to the employer and any other workman whom the appellate authority joins as a party to the appeal.

(4) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(5) The appellate authority may at any stage call for any evidence it considers necessary for the disposal of the appeal.

(6) On the date fixed, under sub-rule (3) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called for or consider to be relevant.

18. Exhibition of standing orders.--A copy of these orders in English and in Hindi shall be pasted at and on a notice-board maintained at or near the main entrance to the establishment and shall be kept in a legible condition.

FORM

(See Standing Order 7-A)

Notice of discontinuance re-starting of a shift working to be given by an employer

Name of employer.....

Address.....

Dated the.....day of.....20

In accordance with Standing Order No.....of the standing order certified and approved in respect of my/our industrial establishment. I/we hereby give notice to all concerned that it is my our intention to discontinue re-start the shift working specified in the Annexure, with effect from.....

Signature.....

Designation.....

ANNEXURE

Here specify the particulars of change in the shift working proposed to be effected.)

Copy forwarded to—

(1) The Secretary of Registered Trade Union, if any

(2) Conciliation Officer (Central), (here enter office address of the Conciliation Officer in the local area concerned).

(3) Regional Labour Commissioner (Central).....Zone.

(4) Chief Labour Commissioner (Central), New Delhi.