

THE INDUSTRIAL DISPUTES ACT- 1947

This act is amended for the prevention and settlement of industrial disputes, through 2 new institutions namely Works committee and Industrial Tribunals.

Objectives:

1. To secure industrial peace (A state in industrial relations in which both employer and employees abstain (withhold) from industrial action, such as strikes and lockouts.)
2. By preventing & settling industrial disputes between employer and workmen
3. To maintain good relations through external machinery (Conciliation, Courts, Industrial Tribunals etc.)
4. To ameliorate (improve) the condition of workmen in the industry
5. By redressal of grievances of workmen in industry
6. By providing job security

Extent of the act: Applicable to whole of the India, to all industries (Private/Public).

Industry:

U/s.2 (j) of Industrial disputes act, Industry is -any systematic activity carried on by Co-operation between on employer and his workmen.

What is not an Industry:

- Any agricultural operation
- Hospitals/dispensaries
- Khadhi and village industry
- activities of any associations
- Educational, scientific, research, training institutes.

Industrial disputes:

Any dispute/differences between – Employers & Employees, Employers & Workmen and Workmen & Workmen.

Generally it means a dispute between the Workmen and the Management. Three ingredients of Industrial disputes:

1. There should be real dispute
2. Dispute between Employer & Workmen
3. Dispute connected with employment or non-employment

Types of Industrial disputes

- a) Individual disputes: Any dispute between that workmen & employer connected with dismissal, termination or retrenchment of that workmen.
- b) Collective dispute – effected all the workmen relating to

- Wages, bonus, compensation, hours of work, leave, Holidays, Rules of discipline, closure of organization, Retrenchment ect.,

LAY – OFF (U/s.2(kkk))

Lay-off means, the failure, refusal or inability of an employer to give employment to a workmen due to – shortage of coal, power, raw material or the accumulation of stocks or the breakdown of machinery or natural calamity.

LOCK-OUT (U/s.2(l))

It means the temporary closing of a place of employment or suspension of work or refusal by an employer to any number of employees

- Lock-out is a weapon available to employer
- Strike is a weapon available to employees.

Differences between Lay-off and Lock out

Lay-off	Lock-out
1. Employer refuses to give employment due to shortage of resources	1. Due to closing of a place of employment
2. Due to trade reasons, beyond the control of the employer	2. It is a weapon used by the employer influencing workmen to accept his demand
3. No way connected with Industrial dispute	3. It is connected with Industrial dispute

RETRENCHMENT (U/s.2 (OO))

The termination by the employer of the service of a workman for any reason otherwise than as punishment by way of disciplinary action.

Retrenchment not include: -Voluntary retirement - Retirement due to reaching the R’age
- Termination due to non-renewal of contract.

STRIKE U/s.2 (q)

- a. A cessation of work by a body of persons employed in any industry acting in combination
- b. A concerted refusal of any number of employees
- c. Refusal under a common understanding of any number of employees
- **Economic Strike** – Such strike happens due to economic demands like increment of wages and allowances like house rent allowance, transport allowances, bonus etc.
- **Sympathy Strike** – In such strike union or workers of one industry join the strikes already hailed by other union or workers.
- **General strike** – This strike intended to increase the political pressure in the ruling party by all unions or members in a region or state.

- **Sit down strike** – In such case, workers hold strikes at the workplace and none of the workers stays absent from duty but they all refuse to work till their demands are fulfilled.
- **Slow down strike** – It means workers or unions don't refuse to work but put pressure on industries to get their demand by reducing or restricting the output of the production of an industry.
- **Hunger strike** – It is one of the painful strikes by the striker where workers go on strike without having food/water to redress the grievances. The employees of Kingfisher airlines went on hunger strikes for salary dues of several months.
- **Wildcat strike** – Such strike happens by the workers without the consent of union and authority. In 2004, advocates went on wildcat strike at civil courts in Bangalore to protest the remarks allegedly made by an assistant commissioner against them.

UNFAIR LABOUR PRACTICE (U/s.2(ra))

It means any of the practices specified in the 5th schedule on the part of employer, trade unions and on the part of workmen.

UNFAIR LABOUR PRACTICE (LISTED IN 5TH SCHEDULE)

I. On the part of employer & Trade unions of employers

1. To interfere with/coerce workmen in the exercise of their right to organize/form/joint activities for collective bargaining
 - a. Threatening workmen with dismissal
 - b. Threatening a lock-out/closure
 - c. Granting wage increase without consulting Trade unions
2. To dominate the activities of Trade unions
 - a. The employer taking an active interest in organizing Trade unions
 - b. Employer showing partiality to one of the trade unions
3. To establish employer – sponsored trade unions of workmen
4. To encourage/discourage membership in any trade unions
 - a. Punishing workman (WM) to join in a Trade union
 - b. Dismissing WM for taking part in legal strike
 - c. Changing seniority of WM due to active participation in Trade union activities
 - d. Refusing promotion for showing interest in Trade union
5. To discharge or dismiss workmen
 - a. by way of victimization
 - b. not in good faith
 - c. by falsely evidence
 - d. for misconduct of a minor/technical character
6. To abolish the work of a regular nature
7. Transferring a workmen

8. Showing partiality to one set of workers
9. To employ workmen as 'badlis', casuals/temporaries for long period
10. To recruit workman during legal strike
11. Failure to implement award
12. To indulge in acts of violence
13. Proposing/continuing a lock-out

II. On the part of Workmen & Trade unions of workmen

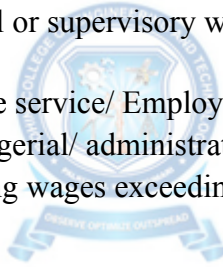
1. To advise/actively support illegal strike
2. To coerce workmen to join a Trade union
3. To indulge in acts of violence
4. Squatting on the work premises after working hours
5. 'Gherao' of any of the managerial or staff members
6. To stage demonstration at the residence of the employer
7. Damaging properties of establishment

Workman

Any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, clerical or supervisory work for hire or reward.

Who are not workmen:

- Employed in Police service/ Employee of prison
- Employed in managerial/ administrative work
- Supervisors drawing wages exceeding Rs.1600 per mensem



Procedure for settlement of Industrial disputes & Authorities under the act

Setting up authorities for prevention, investigation and settlement of Industrial disputes, they are:

- | | |
|-----------------------------------|-----------------------------------|
| 1. Works committees (Sec.3) | 5. Labour courts (Sec.7) |
| 2. Conciliation officers (Sec.4) | 6. Industrial Tribunals (Sec.7-A) |
| 3. Boards of Conciliation (Sec.5) | 7. National Tribunals (Sec.7-B) |
| 4. Courts of inquiry (Sec.6) | |

3 modes of settlement of disputes under this act

- A. Voluntary settlement and conciliation
- B. Adjudication
- C. Arbitration

[A] CONCILIATION MACHINERY

Which include Works committees, Conciliation officers, Board of Conciliation and Courts of Inquiry. They can only make inquiry about the disputes, but can not make any awards.

1. Works committees (WC): (Sec.3)

- Where 100 or more workmen are employed, the WC must be constituted
- Members: The employer & employees should be the members of the committee, the employees strength should not be less than the employer's representatives in the committee.

Powers & Duties

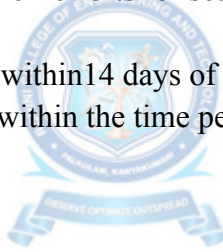
- Securing & preserving amenity or good relations between employers and workmen
- Comment upon matters of their common interest
- Compose any material difference of opinion in welfare, wages, holidays etc.

2. Conciliation officers (Sec.4)

The appropriate Government through notification in Official Gazette appoint Conciliation officers. Their duty is to mediate and promote the settlement of Industrial disputes.

Duties:

- To hold conciliation proceeding s- where any disputes exists.
- To investigate the dispute
- To send a report & memorandum of settlement to appropriate Govt.
- To send a full report about their efforts for settlement, to the Govt. in case no settlement is arrived.
- Report should be submitted within 14 days of the commencement of the conciliation proceedings or within the time period fixed by Govt.



Powers:

1. Power to enter premises
2. Power to call for and inspect documents

3. Boards of Conciliation (Sec.5)

The appropriate Govt. constitutes this board and appoints its members through official gazette.

Members:

It consist of a Chairman (An independent person) & 2 or 4 other members. The other members appointed to represent the disputed parties on the recommendation of them.

Duties:

- To Bring about a settlement of the dispute
- To send a report & memorandum of settlement to appropriate Govt.
- To send a full report about their efforts for settlement, to the Govt. in case no settlement is arrived.
- To communicate reasons to the parties, if no further reference made.
- To submit report within 2 months.

Power:

1. Power to enter premises

2. Power of Civil court

- Enforcing attendance
- Compelling the submission of document
- Issuing notice for the examination of witnesses.

4. Court of enquiry

It is for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

Duties:

- It should inquire into the matters referred to it.
- To send report of Govt. within 6 months.
- The reports should be in writing & signed by all the members.
- It should record any minutes of recommendations in report

Power:

1. Power to enter premises
2. Power of Civil court
 - Enforcing attendance
 - Compelling the submission of document
 - Issuing notice for the examination of witnesses.
3. This court may appoint any person having special knowledge of the matter under consideration.



(b) ADJUDICATION MACHINERY

Sec.7 to 9, explain the adjudication authorities are:

1. Labour court (Sec.7)
2. Industrial Tribunal (Sec.7-A)
3. National Tribunal (Sec.7-B)

1. Labour court (Sec.7)

The appropriate Govt. may constitute one or more labour courts for adjudication of Industrial disputes specified in the 2nd schedule.

Matters within the Jurisdiction of Labour court (The 2nd Schedule)

- a. The legality of an order passed by an employer
- b. Discharge and dismissal of Workman
- c. Withdrawal of any customary concession or privilege
- d. Illegality of strike and lock-out

* The Labour court should consist of only one person, to be appointed by the appropriate Government.

Qualification of the Authority: - The person should be,

- a. The Judge of High court

- b. District judge or Additional district judge (Not less than 3 years of service)
- c. Presiding officer of Labour court (Not less than 7 years of service)

Duties:

- a. To adjudicate upon Industrial disputes, specified in 2nd schedule
- b. To give award within the specified period
 - Award to be in writing & signed and its published

Power:

- a. Power to enter premises
- b. Power of Civil court
 - Enforcing attendance
 - Compelling the submission of document
 - Issuing notice for the examination of witnesses.

2. Industrial Tribunal (Sec.7-A)

Constituted for the adjudication of industrial disputes specified in the 2nd & 3rd schedule.

Matters within the Jurisdiction of Industrial Tribunal (The 3rd Schedule)

- a. Wages, including the period or modes of payment
- b. Compensatory & other allowances
- c. Hours of work and rest intervals
- d. Leave with wages & holidays
- e. Bonus, PF, Gratuity, etc.
- f. Shift working
- g. Classification of grades
- h. Rules of discipline
- i. Rationalization
- j. Retrenchment of workmen & Closure of establishment



Qualification of the Authority: - The person should be,

- a. The Judge of High court
- b. District judge or Additional district judge (Not less than 3 years of service)
- c. Presiding officer of Labour court (Not less than 7 years of service)

Duties:

- a. To adjudicate upon Industrial disputes, specified in 2nd schedule
- b. To give award within the specified period
 - Award to be in writing & signed and its published

Power:

- a. Power to enter premises
- b. Power of Civil court
 - Enforcing attendance
 - Compelling the submission of document
 - Issuing notice for the examination of witnesses.
- c. Power to appoint assessors (Specialists of a particular field)
- d. Power to award cost

3. National Tribunal (Sec.7-B)

It is constituted for the adjudication of industrial disputes which, in the opinion of the central Govt. considered as National importance or the disputes of industrial establishment situated in more than one state.

* Qualification, Duties and Power of the Authorities are as same in Labour court and Industrial tribunal.

Award and Settlement

Award: An interim or final determination of any industrial dispute framed by Labour court, Industrial tribunal or National Tribunal or Arbitrators.

Settlement: - A settlement arrived at in the course of conciliation proceedings
- A written agreement between the employer & workmen arrived during the course of conciliation proceedings.

Differences between Awards and Settlements

AWARDS	SETTLEMENTS
1. Definition of Award	1. Definition of Settlement
2. Enforceable on expiry of 30 days from its publication	2. Enforceable on the date in which the agreement is signed
3. Rejection/ modification of award is possible with in 90 days	3. At any time
4. Period of operation of award is 1 year	4. The period agreed or for 6 months
5. Report should be published	5. Need not be published
6. An award can be arrived through Labour court, Industrial Tribunal and National Tribunal	6. The settlement is arrived through Conciliation.

*** Distinction between Lay-off and Retrenchment.**

Strike & Lock-out

Prohibition of Strike and Lock-out in the following cases: (Sec.22 & 23)

1. Strike in a Public utility services:

- Without giving to the employer notice of strike, within 6 weeks before striking
 - Within 14 days of giving such notice
 - Before the expiry of the date of strike
 - During any conciliation proceedings & 7 days after the conclusion
- A strike notice is valid only for 6 months.

2. Lock-outs in a Public utility services:

- Without giving to the employer notice of strike, within 6 weeks before striking

- b. Within 14 days of giving such notice
- c. Before the expiry of the date of strike
- d. During any conciliation proceedings & 7 days after the conclusion
- A Lock-out notice is valid only for 6 months.

3. Strike and Lock out in an Industrial establishment

- a. During the course of any conciliation proceedings & 7 days after the conclusion
- b. During the pendency of proceeding before LC, IT and NT
- c. During the pendency of proceeding before arbitration
- d. During the period in which a settlement or award is in operation.



Object of the Act

Provisions for investigation and settlement of industrial disputes and for certain other purposes.

Important Clarifications

Industry – has attained wider meaning than defined except for domestic employment, covers from barber shops to big steel companies. **Sec.2(I)**

Works Committee–Joint Committee with equal number of employers and employees' representatives for discussion of certain common problems. **Sec.3**

Conciliation–is an attempt by a third party in helping to settle the disputes **Sec.4**

Adjudication – Labour Court, Industrial Tribunal or National Tribunal to hear and decide the dispute. **Secs.7,7A & 7B**

Power of Labour Court to give Appropriate Relief

Labour Court/Industrial Tribunal can Modify the punishment of dismissal or discharge of workmen and give appropriate relief including reinstatement. **Sec.11A**

Right of a Workman during Pendency of Proceedings in High Court

Employer to pay last drawn wages to reinstated workman when proceedings challenging the award of his reinstatement are pending in the higher Courts. **Sec.17B**

Persons Bound by Settlement

- When in the course of conciliation proceedings etc., all persons working or joining subsequently.
- Otherwise than in course of settlement upon the parties to the settlement. **Sec.18**

Period of Operation of Settlements and Awards

- A settlement for a period as agreed by the parties, or
- Period of six months on signing of settlement.
- An award for one year after its enforcement. **Sec.19**

Lay off & Payment of Compensation – Conditions for Laying off

Failure, refusal or inability of an employer to provide work due to

- Shortage of coal, power or raw material.
- Accumulation of stocks.
- Breakdown of machinery.
- Natural calamity. **Sec.25-C**

Notice of Change

21 days by an employer to workmen about changing the conditions of service as provided in IV th Schedule. **Sec.9A**

Prior Permission for Lay off

When there are more than 100 workmen during proceeding 12 months. **Sec.25-M**

Lay off Compensation

Payment of wages except for intervening weekly holiday compensation 50% of total or basic wages and DA for a period of lay off upto maximum 45 days in a year. **Sec.25-C**

Prohibition of Strikes & Lock Outs

- Without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking.
- Within fourteen days of giving such notice.
- Before the expiry of the date of strike specified in any such notice as aforesaid.
- During the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- During the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings.
- During the pendency of proceedings before a Labour Court, Tribunal or National
- Tribunal and two months, after the conclusion of such proceedings.
- During the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under Sub-Section(3A) of section 10A
- During any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award. **Secs.22&23**

Prior Permission by the Government for Retrenchment

- When there are more than 100 (in UP 300 or more) workmen during preceding 12 months.
- Three months' notice or wages thereto.
- Form QA
- Compensation @ 15 days' wages. **Sec. 25-N**

Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings

- Not to alter to the prejudice of workmen concerned the condition of service.
- To seek Express permission of the concerned authority by paying one month's wages on dismissal, discharge or punish a protected workman connected with the dispute.
- To seek approval of the authority by paying one month's wages before altering condition of service, dismissing or discharging or punishing a workman. **Sec.33**

Prohibition of unfair labour practice either by employer or workman or a trade union as stipulated in fifth schedule

Both the employer and the Union can be punished. **Sec.25-T**

Retrenchment of Workmen Compensation & Conditions

- Workman must have worked for 240 days.
- Retrenchment compensation @ 15 days' wages for every completed year to be calculated at last drawn wages
- One month's notice or wages in lieu thereof.
- Reasons for retrenchment
- Complying with principle of 'last come first go'.
- Sending Form P to Labour Authorities.

Closure of an Undertaking

60 days' notice to the labour authorities for intended closure in Form QA. **Sec.25FFA**
Prior permission atleast 90 days before in Form O by the Government when there are 100 ore more workmen during preceding 12 months (in UP 300 or more workmen) **Sec.25-0**

Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings

- Not to alter to the prejudice of workmen concerned the condition of service.
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- To seek approval of the authority by paying one month's wages before altering condition of service, dismissing or discharging or punishing a workman. **Sec.33**

PENALTIES

Sec.25-U
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27
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Offence

Committing unfair labour practices
Illegal strike and lock-outs
Instigation etc. for illegal strike or lock-outs.
Giving financial aid to illegal strikes and lock-outs.

<Punishment

Imprisonment of upto 6 months or with fine upto Rs.3,000.
Imprisonment upto one month or with fine upto Rs.50(Rs.1000 for lock-out) or with both.
Imprisonment upto 6 months or with fine upto Rs.1,000
Imprisonment for 6 months or with fine upto Rs. 1,000