

The Industrial Disputes Act, 1947



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Applicability of the Act

An Act to make provision for the investigation and settlement of industrial disputes and for certain other purposes.

- **Applicability**

It is applicable to the whole of India

- **W.e.f**

On the first day of April, 1947

Prior to Industrial Disputes Act, 1947

Trade Disputes Act 1929 was sought after for the settlement of industrial disputes. The Industrial Disputes Bill, 1946 came up due to the erstwhile drawbacks in the Trade Disputes Act.

Objective of the IDA, 1947

- The purpose is to bring the conflicts between employer and employees to an amicable settlement.
- The Act provides machinery for settlement of disputes, if dispute cannot be solved through collective bargaining.

Structure of the Act

The Act consists of

- 7 Chapters consisting of 40 sections
- 5 Schedules
- Appendix

Other Related Rules

- The Industrial Tribunal (Procedure) Rules, 1949
- The Industrial Tribunal (Central Procedure) Rules, 1954
- The Industrial Disputes (Central) Rules, 1957

Meaning of Industry

- Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. [section 2(j)]

Industrial Dispute

“Industrial Dispute” means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person; (section 2(k))

Workman

- Workman' means any person (including apprentice) employed in any industry to do any manual, clerical or supervisory work for hire or reward. It includes dismissed, discharged or retrenched person also. However, it does not include (i) Armed Forces i.e. those subject to AirForce Act, Army Act or Navy Act (ii) Police or employees of prison (iii) Employed in mainly managerial or administrative capacity or (iv) person in supervisory capacity drawing wages exceeding Rs 1,600 per month or functions are is mainly of managerial nature. [section 2(x)].

Lay - off

- When an employee is not given work due to some reasons beyond the powers of the employer. It means failure / refusal / inability of the employer to give employment due to following reasons :
 1. shortage of raw material / power
 2. accumulation of stocks
 3. break down of machinery
 4. natural calamity
 - 5 other connected reasons (sec (2(kkk)))

Nature of Lay – off

- It is temporary
- It is due to a situation beyond the control of the employer
- Layoff compensation is given to the employee (50%)
- It is relating to workers whose name is there on the muster roll of the employer
- Employee has to come to the factory, but is laid off in 2 hours (not given work)

Authorities under IDA

- Works committee (sec. 3)
- Conciliation officer (sec. 4)
- Board of conciliation (Sec. 5)
- Courts of inquiry (sec. 6)
- Labour court (sec. 7)
- Tribunal (sec. 7 a)
- National Tribunals (sec. 7 b)

Settlement machinery

- There is a Works Committee in factories employing 100 or more workers. [section 3].
- The committee will consist of equal number of representatives of employer and employees.
- Representatives of employees will be selected in consultation with the Registered Trade Union

Settlement Machinery

- The Works Committee will first try to settle disputes
- If dispute is not solved, it will be referred to Conciliation Officer
- He is appointed by Government. [section 4].
- The matter may also be referred to Board of Conciliation. [section 4].

Settlement Machinery

- Unsolved matters may be referred to labour tribunal / industrial tribunal / labour court (sec. 12 (5))
- Employer and employees can voluntarily refer the matter to arbitration (mediation). [section 10A].
- If no settlement is arrived at, there is three tier system of adjudication Labour Court, Industrial Tribunal and National Tribunal. The order made by them is award

Award

- Award' means an interim or final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal. It also includes arbitration award. [section 2(b)].

Meaning of settlement

- Settlement means a settlement arrived at in the course of conciliation proceedings. It includes a written agreement between employer and workmen arrived at otherwise than in course of conciliation proceedings (i.e. outside the conciliation proceedings).

Difference between Settlement and Award

- The difference is that settlement arrived at in course of conciliation or an arbitration award or award of labour court or Tribunal binds all parties to industrial dispute including present and future workmen and all parties who were summoned to appear in the proceedings. [section 18(3)].
- If settlement is arrived at by mutual agreement, it binds only those who were actually party to agreement. [section 18(1)]

Retrenchment

- Retrenchment' means termination by the employer of service of a workman for any reason, other than as a punishment inflicted by a disciplinary action. However, retrenchment' does not include voluntary retirement or retirement on reaching age of superannuation or termination on account of non-renewal of contract or termination on account of continued ill-health of a workman. [section 2(oo)].

Closure

- Closure' means permanent closing down of a place of employment or part thereof. [section 2(cc)]. Thus, closure can be of part of establishment also. 60 days notice should be given for closure to Government, if number of persons employed are 50 or more. 60 days notice is not necessary if number of persons employed are less than 50. [section 25FFA]. Compensation has to be given as if the workman is retrenched. [section 25FFF(1)]

Lock Out

- Lock-out' means temporary closing or a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. [section 2(l)]. Workers go on strike, while lock-out' is to be declared by employer.

Protected Workmen

- In every establishment, 1% of total workmen are recognised as Protected workman' u/s 33(3) (but minimum 5 and maximum 100).
- In case of such workmen, order for his dismissal, discharge or punishment cannot be passed without permission of authority before whom proceedings are pending, whether the issue is related to dispute or not .
- Such permission is required only during the period proceedings are pending and not after main reference is decided.

Unfair Labour Practice

- Section 25T prohibits unfair labour practices by employer or workman or a trade union.
- If any person commits unfair labour practice, he is punishable with fine upto Rs 1,000 and imprisonment upto 6 months. [section 25U].
- Fifth schedule to Act gives list of what are Unfair Labour Practices'.

Unfair labour practices by Employer

- Interfering in Trade Union activities
- Threatening workmen to refrain them from trade union activities
- Establish employer sponsored Trade Union
- Discourage trade union activities by various means
- Discharge or dismiss by way of victimization or falsely implicating workman
- Abolish work of regular nature and to give that work to contractors
- Mala fide transfer of workman under guise of management policy
- Employ badli or casuals and continue them for years
- Recruitment workmen during strike which is not illegal
- Acts of force and violence
- Not implementing settlement or agreement or award
- Refuse collective bargaining
- Continue illegal lock-out

Unfair labour practices by workers / trade unions

- Support or instigate illegal strike
- Coerce workmen to join or not to join a particular trade union
- Threatening or intimidating workmen who do not join strike
- Refuse collective bargaining in good faith
- Coercive actions including go slow', gherao', squatting on work premises after working hours' etc.
- Wilful damage to employer's property
- Acts of force or violence or intimidation.

National Tribunal

- It will consist of one person only, who should be qualified for appointment as presiding officer of a national tribunal / a judge of a high court. He should be an independent person and should have age of at least 65 years.
- The govt. may appoint two persons to advise the National Tribunal.

Reference to Arbitration

- If workers and management so desire – they can voluntarily refer a matter to arbitrator.
- The arbitrator shall inquire the matter and submit a copy of the arbitration award to the appropriate government.
- If there is a provision of even number of arbitrator, then an umpire arbitrator may also be appointed

About the Author

- *CA. Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. He is the senior partner of Adukia & Associates.*
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About the Author

- *He has been coordinating with various Professional Institutions, Associations, Universities, University Grants Commission and other Educational Institutions.*
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Thank You