

Rajasthan Labour Law Reforms

Amendments to Industrial Disputes Act, 1947

Original Section	Amendment
Section 2A states that all the disputes between the employer and employees with regard to discharge, dismissal, retrenchment or termination can be raised with the Labour Court or Tribunal for adjudication.	The amendment to Section 2A states that all the disputes between the employer and employees with regard to discharge, dismissal, retrenchment or termination need to be raised with the Labour Court or Tribunal for adjudication within a period of three years.

Rationale:

Earlier there was no time limit for raising disputes. The time limit so prescribed could be amended by a competent authority on sufficient grounds. Sometimes workers raise disputes after a lapse of many years which makes settlement problematic. A time limit for raising disputes will reduce the volume of litigation and discourage filing of fictitious claims.

Amendment to Section 9D

Original Section	Amendment
Section 9D states that any Union which has a membership of not less than 15% of the total number of workmen may apply to the Registrar for registration as a representative Union.	The amendment to Section 9D raises the cap from 15 % to 30 %. The amendment states that any Union which has a membership of not less than 30% of the total number of workmen may apply to the Registrar for registration as a representative Union.

Rationale:

Forming labor unions will be difficult as it will require a membership of 30% of the workforce, against the 15% earlier, before it is recognized. The lower limit allowed many unions to emerge often increasing inter-union conflicts and multiplicity.

Amendment to Section 25K

Original Section	Amendment
Section 25K states that no government nod is required for companies employing up to 100 workers for retrenching, laying off or shutting down units.	The amendment to Section 25K has raised the cap from 100 to 300. It states that no government nod is required for companies employing up to 300 workers.

Rationale:

The raise in cap is expected to provide relief to a large number of companies to realign their businesses. Because of the old norms, even though the promoters wanted to exit loss-making businesses or lay off workers due to tough market conditions, the lengthy process to get permission only added to their woes. In the light of the restrictive cap employers would try to keep the workforce within 100, the amendment should encourage them to hire more workers.

Amendment to Section 25N

Original Section	Amendment
<p>Section 25N states that no workman who has been in continuous service for not less than one year in an industrial unit shall be retrenched by that employer until the workman has been given three months' notice, or the workman has been paid in lieu of such notice, wages for the period of the notice; and every workman, at the time of retrenchment, shall be entitled to a compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.</p>	<p>The amended section deletes the provision for payment of wages for the period of notice in lieu of such notice; and states that - Every workman, at the time of retrenchment, shall be entitled to an amount equivalent to his three months average pay in addition to the prescribed compensation.</p>

Rationale:

The amendment makes issuance of notice period of three months mandatory. Earlier, three months' notice period or in lieu of notice wages for notice period (along with the prescribed compensation) could be given to the workers before retrenchment. The amendment ensures the employer shall only give notice of three months to affected workers. Workers will be protected against abrupt dismissal and consequent financial insecurity. Along with the prescribed compensation, an additional compensation of wages for the three-month notice period provides additional financial security.

Amendments to Factory Act, 1948

Amendments to Section 2

Original Section	Amended Section
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<p>Section 2 states that "factory" means any premises including the precincts thereof –</p> <p>(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of ⁱⁱpower, or is ordinarily so carried on, or</p> <p>(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.</p>	<p>The amendment states that in section 2 of the principal Act-</p> <p>(i) for the existing word "ten", the word "twenty" shall be substituted; and</p> <p>(ii) for the existing word "twenty", the word "forty" shall be substituted.</p>
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Rationale:

The definition of a factory has been amended to a unit of 40 workers or more (previously 10), and in any part of which a manufacturing process is being carried on with the aid of power; and a unit of 40 workers or more (previously 20), and in which a manufacturing process is being carried on without the aid of power. Due to increase in manufacturing activities by small units in the State, the amendment is proposed to be made so that establishing of small manufacturing units is promoted resulting in creation of more employment opportunities for workers. Earlier small units were also covered under the definition of 'factory' requiring ⁱⁱⁱseveral compliances while hurting their expansion and growth.

Amendment to Section 105

Original Section	Amendment
<p>Section 105 states that no court shall take cognizance of any offence under this act except on complaint by, or with the previous sanction in writing of, an Inspector.</p>	<p>The amendment states that no court shall take cognizance of any offence under this act except on complaint by an Inspector with the previous sanction in writing by the State Government.</p>

Rationale:

A court shall take cognizance of any offence on complaint by an inspector only after the complaint has been sanctioned by the State Government. Previously prior government sanction was not called for. Prior government sanction for cognizance of offence will maintain uniformity in smaller cases and transparency in implementation.

Insertion of Section 106 B – Compounding of offences –

Insertion of new section 106B -

The Inspector may, subject to any general or special order of the State Government in this behalf, compound any offence punishable under this Act with fine only, and committed for the first time, either before or after the institution of the prosecution, on realization of such amount of composition fee as he thinks fit not exceeding the maximum amount of fine fixed for the offence; and where the offence is so compounded,-

(i) before the institution of the prosecution, the offender shall not be liable to prosecution, for such offence and shall, if in custody, be set at liberty;

(ii) after the institution of the prosecution the composition shall amount to acquittal of the offender.

Rationale:

^{iv}The Inspector may, subject to any general or special order of the State Government in this behalf, compound any offence punishable under this Act with fine only, and committed for the first time, either before or after the institution of the prosecution. Under the existing provisions of the Act, there is no provision for compounding of offences, resulting in higher number of prosecution cases. To speedily dispose of offences and to minimize the number of litigation, a new provision, i.e. section 106B is proposed to be inserted for compounding of offences.

Amendments to Contract Labor Act, 1970

Amendment to Section 1

Original Section	Amendment
Section 1 states that the act applies- (a) to every establishment in which <i>twenty</i> or more workmen are employed or were employed on any day of the preceding twelve months as contract labour; (b) to every contractor who employs or who employed on any day of the preceding twelve months <i>twenty</i> or more workmen	The amendment states that the act applies- (a) to every establishment in which <i>fifty</i> or more workmen are employed or were employed on any day of the preceding twelve months as contract labour; (b) to every contractor who employs or who employed on any day of the preceding twelve months <i>fifty</i> or more workmen

Rationale:

Establishments and contractors which employ more 50 people or more (previously 20) will be covered under the act (provided that the State Government may, after giving not less than two months' notice, apply the provisions of this act to any establishment or contractor employing less than 50 workers). Because of the existing threshold limit, principal employers while hiring personnel or procuring commodities find it difficult to execute contracts, as the small units face hardship in ensuring formalities under the act. It has been observed that the lower limit either encourages non-compliance or restricts the engagement of required labor as per demand. The

move shall provide more opportunity of employment and facilitate business in small units.

Amendments to Apprenticeship Act, 1961

Amendment to Section 6

Original Section	Amendment
Section 6 states that the period of apprenticeship training specified in the contract of apprenticeship shall be such as may be prescribed by the National Council or the Central Apprenticeship Council.	The amendment to Section 6 states that the period of apprenticeship training specified in the contract of apprenticeship shall be such as may be prescribed by the State Apprenticeship Council.

Rationale:

The training period for apprenticeship is being reduced. The period of apprenticeship training shall be such as may be prescribed by State Apprenticeship Council. Previously, the period of apprenticeship training for trade apprentices varied from trade to trade at 6 months to 4 years, which were quite long. With the availability of quality compact modules of shorter durations, neither the apprentice nor the industry prefers long periods of training. Also, instead of the Union, the states, being closely aware of the demands of the sectors, should be empowered to carry out the required changes in consultation with industry.

Amendment to Section 7

Original Section	Amendment
Section 7 states that in the event of failure on part of employer or apprentice to carry out the contract, the <i>Central Apprenticeship Adviser</i> may terminate the contract.	The amendment to Section 7 states that in the event of failure on part of employer or apprentice to carry out the contract, the <i>State Apprenticeship Adviser</i> may terminate the contract.

Rationale:

In the event of failure on part of employer or apprentice to carry out the contract, the aggrieved is entitled to compensation arrived at by State Apprenticeship Adviser. State Apprenticeship Adviser is being empowered in place of its central counterpart in order to expedite the grievance redressal mechanism.

Amendment to Section 8

Original Section	Amendment
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<p>Section 8 states that the State Government shall, after consulting the <i>Central Apprenticeship Council</i>, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade. Employers may employ apprentices lesser than the number arrived at by the ratio for the trade provided that the apprentices peg at not less than 50 % of the number so arrived at and the employer engages apprentices in other trades in excess in number equivalent to such shortfall.</p>	<p>The amendment to Section 8 states that the State Government shall, after consulting the <i>State Apprenticeship Council</i>, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade. Employers may employ apprentices lesser than the number arrived at by the ratio for the trade provided that the apprentices peg at not less than 30 % of the number so arrived at and the employer engages apprentices in other trades in excess in number equivalent to such shortfall.</p>
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Rationale:

In order to make the provisions more realistic and conducive for the State to take steps as per the need, the *State Apprenticeship Council*, is being empowered to work out the ratio. Accordingly amendments are proposed to replace the Union by the State. The lowering of waiver cap from 50% to 30 % will facilitate intra-industry readjustment of seats.

Amendment to Section 9

Original Section	Amendment
<p>The Section 9 states that – Every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the program approved by the Central Apprenticeship Adviser; and Recurring costs (including the cost of stipends) incurred by an employer shall be borne- (i) If such employer employs two hundred and fifty workers or more, by the employer; (ii) If such employer employs less than two hundred and fifty workers, by the employer and the Government in equal shares up to such limit as may be laid down by the Central Government and beyond that limit, by the employer alone.</p>	<p>The amendment to Section 9 states that - Every employer shall, make suitable arrangements in his establishment or, outsource the same to a suitable third party training provider for imparting a course of practical training to every apprentice engaged by it in accordance with the program approved by the State Apprenticeship Adviser; and Recurring costs (including the cost of stipends) incurred by an employer shall be borne- (i) if such employer employs two hundred and fifty workers or more, by the employer and the Government in equal shares up to such a limit as may be laid down by the State Government and such amount shall be reimbursed by the State Government in each case of completion of successful training by the apprentice;</p>

	<p>(ii) if such employer employs less than two hundred and fifty workers, by the State Government alone and such amount up to such a limit as may be laid down by the State Government shall be reimbursed by the State Government, and beyond that limit by the employer in each case of completion of successful training by the apprentice.</p>
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Rationale:

Third party training of the apprentices will be allowed. Earlier provisions did not allow third party training provider to conduct practical training of apprentices. Recurring costs of training to the apprentices will be borne by the State government if the employer employs 250 workers or less and in equal share by the government if the employer employs more than 250 workers. Previously, the recurring costs were borne by the employer (if he employed 250 workers or more) or shared in equal by the government (if he employed less than 250 workers). After completion of apprentice training under a designated trade as per prescribed curriculum, National Apprenticeship Council conducts the test and awards National Apprenticeship Certificate to successful candidates. Many industries lack proper working environment and trainer to conduct apprentice training in the campus. In the market today, there are third party professional trainers, capable of providing industry level training as per prescribed curriculum. Government bearing recurring costs shall encourage better implementation of the law.

Amendment to Section 13

Original Section	Amendment
<p>Section 13 states that the employer shall pay to every apprentice during the period of apprenticeship training such stipend as specified in the contract of apprenticeship at a rate not less than the prescribed minimum rate under the act.</p>	<p>The amendment to Section 13 states that the employer shall pay to every apprentice during the period of apprenticeship training such stipend as specified in the contract of apprenticeship at a rate not less than the minimum wages notified by State Government under the Minimum Wages Act, 1948 (Central Act No. 11 of 1948) for unskilled worker category.</p>

Rationale:



The minimum wage notified for unskilled workers will be provided to apprentices. Previously, the employer was obligated to pay stipend at a rate not less than that specified in the contract of apprenticeship. Without providing reasonable amount of stipend to defray the basic costs of accommodation, food and transport; it is not possible to attract large number of willing apprentices for apprenticeship training. The present number of stipends is quite low. Therefore, notified minimum wage of unskilled worker category will be paid to the apprentices.

Amendment to Section 14

Original Section	Amendment
Section 14 states that health, safety and welfare standards prescribed under the Factory Act, 1948 and the Mines Act, 1952 are applicable to apprentices working in factories and mines respectively.	Amendment to Section 14 adds a provision to apply health, welfare and safety provisions of the Rajasthan Shops and Commercial Establishments Act, 1958 to apprentices undergoing training in a shop or commercial establishments.

Rationale:

Previously, health, safety and welfare standards prescribed only under the Factory Act, 1948 and the Mines Act, 1952 were applicable to apprentices working in factories and mines respectively. The amendment will make the health, safety and welfare standards as prescribed under the Rajasthan Shops and Commercial Establishments Act, 1958 applicable to apprentices as well. Now apprentices training in shop or commercial establishments will be entitled to health and safety safeguards as are the apprentices working in factories and mines. This will ensure uniformity across the sponsoring industries in the best interest of apprentices.

Amendment to Section 23

Original Section	Amendment
Section 23 states that every State Council <i>shall</i> be affiliated to the National Council and every State Apprenticeship Council <i>shall</i> be affiliated to the Central Apprenticeship Council.	The amendment to Section 23 states that every State Council may be affiliated to the National Council and every State Apprenticeship Council <i>may</i> be affiliated to the Central Apprenticeship Council.

Rationale:

Affiliation of the State Council and the State Apprenticeship Council to the National Council and the Central Apprenticeship Council is made optional. Earlier, affiliation was mandatory. The amendment will devolve powers to the state councils and will render more flexibility at the state level for expeditious decision making.

ⁱ See Chapter VB in -

http://pblabour.gov.in/pdf/acts_rules/inustrial_disputes_act_1947.pdf

ⁱⁱ "Power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency.

ⁱⁱⁱ See http://mpsdma.nic.in/Website_Material/Factories_Act.pdf

^{iv} The State Government may, by notification in the Official Gazette, appoints such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and assigns to them such local limits as it may think fit.