

**THE INDUSTRIAL DISPUTES (GUJARAT AMENDMENT) BILL,
2020.**

GUJARAT BILL NO. 16 OF 2020.

A BILL

*further to amend the Industrial Disputes Act, 1947 in its application to the
State of Gujarat.*

It is hereby enacted in the Seventy-first Year of the Republic of
India as follows:-

1. (1) This Act may be called the Industrial Disputes (Gujarat
Amendment) Act, 2020.

**Short title and
commencement.**

(2) It shall be deemed to have come into force on the 3rd July, 2020.

- Amendment of section 25K of XIV of 1947.** **2.** In the Industrial Disputes Act, 1947, in its application to the State of Gujarat (hereinafter referred to as “the principal Act”), in section 25K,- **XIV of 1947.**
- (i) in sub-section (1), for the words “one hundred”, the words “three hundred” shall be substituted;
- (ii) after sub-section (1), the following sub-section shall be inserted, namely:-
- “(1A) Without prejudice to the provisions of sub-section (1), the State Government may, if satisfied that the maintenance of industrial peace or prevention of victimization of workmen so requires, by notification in the *Official Gazette*, apply the provision of this Chapter to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which such number of workmen which may be less than three hundred but not less than one hundred, as may be specified in the notification, were employed on an average per working day for the preceding twelve months.”.
- Amendment of section 25N of XIV of 1947.** **3.** In the principal Act, in section 25N,-
- (i) in sub-section (1), in clause (a), the words “or the workman has been paid in lieu of such notice, wages for the period of the notice” shall be deleted;
- (ii) in sub-section (9), the words “and an amount equivalent to his last three months average pay” shall be added at the end.
- Amendment of section 25-O of XIV of 1947.** **4.** In the principal Act, in section 25-O, in sub-section (8), the words “and an amount equivalent to his last three months average pay” shall be added at the end.
- Repeal and saving.** **5.** (1) The Industrial Disputes (Gujarat Amendment) Ordinance, 2020 is hereby repealed. **Guj. Ord. 5 of 2020.**
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Since its inception, Gujarat has been an industrially progressive State and in the last decade, it has become an industrial hub and growth engine of the country. There have been cordial relations between the industry and the workers and there have been hardly any occasions of strikes or lock-outs. More and more industries are being established in Gujarat and therefore, the State Government has considered it necessary to strike the balance of interests between the industries and the workers and create an environment which is conducive to both, the industry and the workers. Industry and labour are both integral parts which ought to have relationship of professionalism, cordiality, and trust for sustained growth and development as also transforming the general quality of life.

2. Existing provision of section 25K of the Industrial Disputes Act, 1947 provides for applicability of Chapter VB to such industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months. In such establishments, prior permission of the State Government is to be required for the employer before effecting lay off, retrenchment or closure. It is considered necessary to have provision which would help and encourage the employers to employ more number of workers in the establishment and therefore, said section 25K is proposed to be amended so as to increase the number of workmen from one hundred to three hundred.

3. Existing section 25N provides for conditions precedent to retrenchment of workmen. Under clause (a) of sub-section (1), it is required that three months' notice or in *lieu* of notice wages for notice period is to be given to the workers before retrenchment. To ensure that the employer shall only give notice of three months to such workmen, provision to give wages for notice period in *lieu* of notice is proposed to be deleted. Further, to provide additional financial security to the workman affected by such retrenchment, it considered necessary to amend sub-section (9) to the effect that in addition of that compensation, as prescribed in the said sub-section, the workman is paid an amount equivalent to his last three months average pay.

4. Similar provision is proposed to be added in sub-section (8) of section 25 O providing for payment to the workman of an amount equivalent to his last three months average pay, along with compensation

on prescribed rates, must also be paid to the workers who are being affected by the closure of the establishment.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the Industrial Disputes (Gujarat Amendment) Ordinance, 2020 was promulgated to achieve the aforesaid objects.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

DILIPKUMAR THAKOR,

MEMORENDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respect:-

Clause 2.- New sub-section (1A) proposed to be inserted in section 25K of the Industrial Disputes Act, 1947 by sub-clause (ii) of this clause empowers the State Government, on being satisfied that the maintenance of industrial peace or prevention of victimization of workmen so requires to apply, by notification in the *Official Gazette*, the provision of Chapter VB of the said Central Act of 1947 to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which such number of workmen which may be less than three hundred but not less than one hundred, as may be specified in the notification, were employed on an average per working day for the preceding twelve months.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated the 11th September, 2020.

DILIPKUMAR THAKOR.

*ANNEXURE***EXTRACT FROM THE INDUSTRIAL DISPUTES ACT, 1947.****(XIV of 1947)**

25K. (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months.

**Application
of Chapter
V-B.**

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

25N. (1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

**Conditions
precedent to
retrenchment
of workmen.**

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the *Official Gazette* (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) to (8) XXX XXX XXX

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, 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.

**Procedure
for closing
down an
undertaking.**

25-O. (1) XXX XXX XXX

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) to (7) XXX XXX XXX

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive 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.

GUJARAT LEGISLATURE SECRETARIAT

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**[SHRI DILIPKUMAR THAKOR,
MINISTER FOR LABOUR AND
EMPLOYMENT]**

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D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.