

MINIMUM WAGES ACT, 1948

Background

A tripartite Committee Viz., "The Committee on Fair Wage" was set up in 1948 to provide guidelines for wage structures in the country. The report of this Committee was a major landmark in the history of formulation of wage policy in India. Its recommendations set out the key concepts of the 'living wage', "minimum wages" and "fair wage" besides setting out guidelines for wage fixation.

Article 39 states that the State shall, in particular, direct its policy towards securing (a) that the citizen, men and women equally shall have the right to an adequate livelihood and (b) that there is equal pay for equal work for both men and women.

Article 43 states that the State shall endeavour, by suitable legislation or economic organization or in any other way, to give all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure, and social and cultural opportunities.

Enactment of the Minimum Wages Act

Historical Backdrop

* The initiative started with the resolution placed by one Shri. K. G. R. Choudhary in 1920 for setting up Boards for determination of minimum wages in each industry.

* The International Labour Conference adopted in 1928 Convention No.26 and Recommendation No. 30 relating to wage fixing machinery in trades or parts of trades.

* On the recommendation of the Standing Labour Committee and Indian Labour Conference, a Labour Investigation Committee was appointed in 1943 to investigate into the question of wages and other matters like housing, social conditions and employment.

* A draft bill was considered by the Indian Labour Conference in 1945.

* The 8th meeting of the Standing Labour Committee recommended in 1946 to enact a separate legislation for the unorganized sector including working hours, minimum wages and paid holidays.

* A Minimum Wages Bill was introduced in the Central Legislative Assembly on 11.4.46 to provide for fixation of minimum wages in certain employments. It was passed in 1946 and came into force with effect from 15.3.48.

Under the Act, Central and State Governments are appropriate Governments to

- (a) notify scheduled employment
- (b) fix/revise minimum wages

The Act contains list of all these employments for which minimum wages are to be fixed by the appropriate Governments.

There are two parts of the Schedule. Part I has non-agricultural employments whereas Part-II relates to employment in agriculture.

Criteria for notification of scheduled employment

Under the provisions of the Minimum Wages Act, 1948, both Central and State Governments are appropriate Governments to fix, review and revise the minimum wages of the workers employed in the scheduled employments under their respective jurisdictions. The appropriate Governments have also been empowered to notify any employment in the schedule where the number of employees is 1000 or more and fix the rates of minimum wages in respect of the employees employed therein.

There are 45 scheduled employments in the Central Sphere while in the State Sphere the number of such employments is as many as 1596.

The Minimum Wages Act does not provide for any discrimination between male and female workers or different minimum wages for them. All the provisions of the Act equally apply to both male and female workers.

Norms for fixation/revision of minimum wages

The norms include those which were recommended by the Indian Labour Conference in its session held in 1957.

- (a) 3 consumption units for one earner.
- (b) Minimum food requirements of 2700 calories per average Indian adult.
- (c) Clothing requirements of 72 yards per annum per family.
- (d) Rent corresponding to the minimum area provided for under Government's Industrial Housing Scheme.
- (e) Fuel, lighting and other miscellaneous items of expenditure to constitute 20% of the total Minimum Wages.

Other parameters

- (i) "Children education, medical requirement, minimum recreation including festivals/ceremonies and provision for old age, marriage etc. should further constitute 25% of the total minimum wage." This judgment was delivered by the Supreme Court of India in 1991 in the case of Reptakos Brett and Co. Vs. its workmen.
- (ii) Local conditions and other factors influencing the wage rate.

Methods for fixation/revision of minimum wages Fixation

Section 3 empowers appropriate Government to fix the minimum rates of wages in the scheduled employments.

Revision

Revise the Minimum rates at an appropriate interval not exceeding five years.

Procedure for Fixation/Revision

In Section 5 of the Minimum Wages Act, 1948, two methods have been provided for fixation/revision of minimum wages. They are Committee method and Notification method.

Committee Method

Under this method, committees and sub-committees are set up by the appropriate Governments to hold enquiries and make recommendations with regard to fixation and revision of minimum wages, as the case may be.

Notification method

In this method, Government proposals are published in the Official Gazette for information of the persons likely to be affected thereby and specify a date not less than two months from the date of the notification on which the proposals will be taken into consideration.

After considering advice of the Committees/Sub-committees and all the representations received by the specified date in Notification method, the appropriate Government shall, by notification in the Official Gazette, fix/revise the minimum wage in respect of the concerned scheduled employment and it shall come into force on expiry of three months from the date of its issue.

Variable Dearness Allowance (VDA)

In order to protect the minimum wages against inflation, the Central Government has made provision of Variable Dearness Allowance (VDA) linked to Consumer Price Index Number for Industrial Workers (CPI – IW). As regards States Governments/Union Territory Administrations, 26 of them have made VDA as a component of minimum wages. Both Central and State Governments are revising the minimum wages in respect of these scheduled employments from time to time with 100% neutralization. Accordingly, VDA is revised periodically twice a year effective from 1st April and 1st October in the Central Sphere.

Enforcement

The enforcement of the Minimum Wages Act, 1948 is secured at two levels. While in the Central Sphere, the enforcement is secured through the Inspecting officers of the Chief Labour Commissioner (Central) commonly designated as Industrial Relations Machinery (CIRM), the compliance in the State Sphere is ensured through the State Enforcement Machinery. They conduct regular inspections and in the event of detection of any case of non-payment or under-payment of minimum wages, they advise the employers to make payment of the shortfall of wages. In case of non-compliance, penal provisions prescribed in the Act are taken recourse to.

National Wage Policy

Though it is desirable to have a National Wage Policy it is difficult to conceive a concept of the same. The National Wage Policy has been discussed on many occasions in different fora. Because fixation of wages depends on a number of criteria like local conditions, cost of living and paying capacity also varies from State to State and from industry to industry, it would be difficult to maintain uniformity in wages. The Indian Labour Conference, held in November, 1985 expressed the following views-

"Till such time a national wage is feasible, it would be desirable to have regional minimum wages in regard to which the Central Government may lay down the guidelines. The Minimum Wages should be revised at regular periodicity and should be linked with rise in the cost of living"

Accordingly, the Government issued guidelines in July, 87 for setting up of Regional Minimum Wages Advisory Committees. These Committees renamed subsequently as Regional Labour Ministers' Conference, made a number of recommendations which include reduction in disparities in minimum wages in different states of a region, setting up of inter-state Coordination Council, consultation with neighbouring States while fixing/revising minimum wages etc.

Steps taken to reduce disparities

Five Regional Committees

There is disparity in rates of minimum wages in various regions of the country. This is due to differences in socio-economic and agro-climatic conditions, prices of essential commodities, paying capacity, productivity and local conditions influencing the wage rate. The regional disparity in minimum wages is also attributed to the fact that both the Central and State Governments are the appropriate Government to fix, revise and enforce minimum wages in scheduled employments in their respective jurisdictions under the Act. To bring uniformity in the minimum wages of scheduled employments, the Union Government has requested the States to form regional Committees. At present there are five Regional Minimum Wages Advisory Committees in the country, which are as under: -

Region	States/UTs covered
Eastern Region (6)	West Bengal, Orissa, Bihar, Jharkhand, Chhattisgarh and Andaman & Nicobar Islands.
North Eastern Region (8)	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim.
Southern Region (6)	Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Pondicherry and Lakshadweep.

Northern Region (9)	Punjab, Rajasthan, Himachal Pradesh, Jammu & Kashmir, Haryana, Uttar Pradesh, Uttarakhand, Delhi and Chandigarh.
Western Region (6)	Maharashtra, Gujarat, Goa, Madhya Pradesh, Dadra & Nagar Haveli and Daman & Diu.

National Floor Level Minimum Wage

In order to have a uniform wage structure and to reduce the disparity in minimum wages across the country, a concept of National Floor Level Minimum Wage was mooted on the basis of the recommendations of the National Commission on Rural Labour (NCRL) in 1991. Keeping in view the recommendation of NCRL and subsequent rises in price indices, the National Floor Level Minimum Wage was fixed at Rs.35/- per day in 1996. Keeping in view the rise in Consumer Price Index the Central Government raised the National Floor Level Minimum wage to Rs.40/- per day in 1998. Further to Rs.45/- w.e.f. 01.12.1999 and Rs. 50/- per day w.e.f. 01.09.2002.

Based on the norms suggested by the Working Group and its acceptance by the Central Advisory Board subsequently in its meeting held on 19.12.2003, the National Floor Level Minimum Wage was revised upwards to Rs.66/- per day with effect from 1.02.2004. On the basis of increase in the Consumer Price Index, the Central Government further revised the National Floor Level Minimum Wages from Rs.66/- to Rs.80/- per day with effect from 01.09.2007.

It is, however, clarified that the National Floor Level Minimum Wage, is a non-statutory measure to ensure upward revision of minimum wages in different in States/UT's. Thus, the State Governments are persuaded to fix minimum wages such that in none of the scheduled employments, the minimum wage is less than National Floor Level Minimum Wage. This method has helped in reducing disparity among different rates of minimum wages to some extent.

To sum up, effective implementation of the Minimum Wages Act, 1948, including that of the revision of minimum wages at national floor level minimum wage or higher; which primarily falls in the State sphere, is assiduously pursued by us through discussion, writing letters, personal interaction and visits to States, including the North-Eastern States. The State Governments are regularly asked to fix and revise minimum wages in scheduled employments to be at least at par with National Floor Level Minimum Wage of Rs.80/- per day as at present. What they actually do is in keeping with their respective paying capacity.

Recent Initiatives

Based on the recommendations of the Minimum Wages Advisory Board (MWAB) in its meeting held on 22.01.2008 and 26.06.2008, the Ministry of Labour & Employment has issued the Final Notification in the Gazette of India (Extra Ordinary) fixing the minimum rates of wages for workers employed in the scheduled employments **"Employment of Sweeping and Cleaning"** in the Central sphere at Rs.120/-, Rs. 150/- and Rs.180/- per day and for **"Employment of Watch and Ward"** (a) without arms at Rs.120/-, Rs.150/- and Rs.180/- per day and (b) with arms at Rs.140/-, Rs.170/- and Rs.200/- per day for Area 'C', 'B' and 'A' respectively and the Final Notifications in respect of revision of minimum rates of wages for workers engaged in the scheduled employments of **"Construction"** and **"Loading and Unloading"** in the Central sphere at Rs.120/-, Rs.150/- and Rs.180/- per day for unskilled workers to Rs.200/-, Rs.220/- and Rs.240/- per day for highly skilled workers in Area 'C', 'B' and 'A' respectively and for workers engaged in **"Non-Coal Mines"** in the Central sphere at Rs.120/- per day for unskilled Workers (Above Ground) to Rs.240/- per day for highly skilled workers (Below Ground).

**LIST OF SCHEDULED EMPLOYMENTS IN CENTRAL GOVERNMENT UNDER THE
MINIMUM WAGES ACT, 1948**

S. No	Name of Employment
1.	Agriculture
2.	Construction/Maintenance of Roads and Building Operations.
3	Maintenance of Buildings
4.	Construction and Maintenance of Runways.
5.	Gypsum mines.
6.	Barites mines.
7.	Bauxite mines.
8.	Manganese mines.
9.	China Clay mines.
10	Kyanite mines.
11	Copper mines.
12	Clay mines.
13	Stone mines.
14	White Clay mines.
15	Orchire mines.
16	Fire Clay mines.
17	Steatite (Soapstone and Talc) Mines.
18	Asbestos mines.
19	Chromite mines.
20	Quartzite Mines
21	Quartz mines
22	Silica mines.
23	Magnesite Mines
24	Graphite mines.
25	Felspar mines.
26	Red oxide mines.
27	Laterite mines.
28	Dolomite mines.
29	Iron Ore mines.
30	Granite mines.
31	Wolfram mines.
32	Magnetite mines.
33	Rock phosphate mines.
34	Hematite mines.
35	Marble and Calcite Mines.
36	Uranium mines
37	Mica mines.
38	Employment in Lignite Mines
39	Employment in Gravel Mines
40	Employment in the Slate Mines
41	Employment in laying down of underground electric, wireless, radio, television, telephone, telegraph and overseas communication cables and similar other underground cabling, electric lines water supply lines and sewerage pipe lines.

42	Loading and Unloading in Railways Goods Shed
43	Stone Breaking and Stone Crushing
44	Employment in Sweeping and Cleaning
45	Employment in Watch and Ward

PAYMENT OF WAGES ACT, 1936

The Payment of Wages Act, 1936 was enacted to regulate payment of wages to workers employed in Industries and to ensure a speedy and effective remedy to them against illegal deductions and/or unjustified delay caused in paying wages to them. The existing wage ceiling under Payment of Wages Act, 1936, was fixed at Rs. 1600/- pm in 1982. With a view to enhance the wage ceiling to Rs. 6500/- p.m. for applicability of the Act, to empower the Central Government to further increase the ceiling in future by way of notification and to enhance the penal provisions etc., the Payment of Wages (Amendment) Act, 2005, which was passed by both Houses of Parliament, has been notified on 6.9.2005 as an Act 41 of 2005 by the Ministry of Law & Justice. Subsequently, the Ministry of Labour & Employment has issued the Notification No. S.O 1577(E) to make the Payment of Wages (Amendment) Act, 2005 effective from the 9 November 2005.

Further, in exercise of the powers conferred by sub-section (6) of Section 1 of the Act, the Central Government, on the basis of figures of the Consumer Expenditure Survey published by National Sample Survey Organization, has enhanced the wage ceiling, further, to Rs. 10,000/- per month vide gazette notification No. S.O. 1380 (E) dated 8th August, 2007.

Enforcement Machinery

The Central Government is responsible for the administration of the Act in railways, mines, oilfields and air transport services, while State Governments are responsible in factories and other industrial establishments. In respect of major ports, State Governments have appointed officers of the Central Industrial Machinery as Inspector for enforcing the Act.

Penal provisions

In respect of any of the contravention to the provisions of the Act like unauthorized deductions, delayed payments etc, the Act provides for various penal provisions against defaulting employer.