

3.5 MINIMUM WAGES ACT, 1948

The object of the Act is to secure the welfare of the workers in a competitive market by fixing the minimum rates of wages in certain employments. The Legislature undoubtedly intended to apply the Act to those industries or localities in which, by reason of causes such as unorganized labour or absence of machinery for regulation of wages, wages paid to workers were, in the light of the general level of wages and subsistence level, inadequate [*Bhikusa Yamasa Kshatriya v. Sangammer Akola Taluka, Bidi Kamgar Union*, A.I.R. (1963) S.C. 806].

The Minimum Wages Act was passed in 1948 enabling the Central and State Governments to fix minimum rates of wages payable to employees in a selected number of 'sweated' industries.

The Act applies to the whole of India.

Wages [Sec. 2 (h)].

'Wages' means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or work done in such employment. It includes house rent allowance but does not include—

- (i) The value of—
 - (a) Any house accommodation, supply of light, water, medical attendance, or
 - (b) Any other amenity or any service excluded by general or special order of the appropriate Government;
- (ii) Any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
- (iii) Any travelling allowance or the value of any travelling concession;
- (iv) Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (v) Any gratuity payable on discharge.

Fixing of minimum rates of wages (Sec. 3)

The responsibility for fixing the minimum rates of wages is that of the appropriate Government. Sec. 3 provides that the appropriate Government—

- (a) shall fix the minimum rates of wages payable to employees employed in an employment specified in Part I or part II of the Schedule (reproduced earlier) and in an employment added to either Part by notification in the Official *Gazette* [Sec. 3 (1) (a)];
- (b) may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof [Proviso to Sec. 3 (1) (a)];
- (c) shall review at such intervals not exceeding 5 years, the minimum rates of wages so fixed and revise the minimum rates if necessary [Sec. 3 (1) (b)].

Minimum number of employees.

- The appropriate Government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than 1,000 employees engaged in such employment.
- But if at any time, the appropriate Government comes to a finding after an inquiry that the number of employees in any scheduled employment has risen to 1,000 or more, it shall fix minimum rates of wages payable as soon as may be after such finding [Sec. 3 (1-A)].

Minimum rates. The appropriate Government may fix—

- (a) a minimum rate of wages for time work (referred to as ‘a minimum time rate’);
- (b) a minimum rate of wages for piece work (referred to as ‘a minimum piece rate’);
- (c) a minimum rate of remuneration to apply in the case of such employees employed on piece work for purpose of securing to such employees a minimum rate of wages on a time work basis (referred to as ‘a guaranteed time rate’);
- (d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (referred to as ‘overtime rate’) [Sec. 3 (2)].

Advisory Board (Sec. 7)

For the purpose of coordinating the work of committees and sub-committees appointed under Sec. 5 and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board (Sec. 7).

No procedure is prescribed in the Act for the Advisory Board to function. It can devise its own procedure [*State of Rajasthan v. Hari Ram Nathwani*, A.I.R. (1976) S.C. 277].

Composition of Committees and Advisory Board (Sec. 9).

Each of the committees, sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding 1/3rd of its total number of members. One of the independent persons shall be appointed the Chairman by the appropriate Government.

Wages in kind (Sec. 11)

- Minimum wages payable under the Act shall be paid in cash [Sec. 11 (1)]. But where it has been the custom to pay wages wholly or partly in kind, the appropriate Government may, by notification in the *Official Gazette*, authorise the payment of minimum wages either wholly or partly in kind [Sec. 11 (2)].
- The appropriate Government may also by notification in the *Official Gazette* authorise the provision of the supply of essential commodities at concessional rates [Sec. 11 (3)].
- The cash value of wages in kind [under Sec. 11 (2)] and of concession in respect of supplies of essential commodities at concessional rates authorised under Sec. 11 (2) and (3) shall be estimated in the prescribed manner [Sec. 11 (4)].

Payment of minimum rate of wages (Sec. 12)

- Where in respect of any scheduled employment minimum wages have been fixed, the employer shall pay to every employee wages at a rate not less than the minimum rate of wages fixed for that class of employees in the employment.
- Such wages shall be paid without any deductions except as may be authorised. Where the contract rate of wages is higher, the statutory obligation does not come into play [Sec. 12 (1)].

Sec. 12 does not affect the provisions of the Payment of Wages Act, 1936 [Sec. 12 (2)].

Fixing hours for a normal working day, etc. (Sec. 13)

In regard to any scheduled employment where minimum rates of wages have been fixed, the appropriate Government may—

- (a) fix the number of hours of work which constitute a normal working day, inclusive of one or more specified intervals;

- (b) provide for a day of rest in every period of 7 days and for payment of remuneration in respect of such day of rest;
- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate [Sec. 13 (1)].

Provisions of Sec. 13 (1) to apply subject to conditions.

In relation to the following classes of employees, the provisions of Sec. 13 (1) shall apply only to such extent and subject to such conditions as may be prescribed;

- (a) employees engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
- (c) employees whose employment is essentially intermittent;
- (d) employees engaged in any work which for technical reasons has to be completed before the duty is over;
- (e) employees engaged in work which could not be carried on except at times dependent on the irregular action of natural forces [Sec. 13 (2)].

Intermittent employment.

The employment of an employee is essentially intermittent when it is declared to be so by the appropriate Government. The appropriate Government declares an employment **as intermittent on the ground that the daily** hours of duty of the employee normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention [Sec. 13. (3)].

Rates of overtime (Sec. 14)

Where an employee, whose minimum rate of wages is fixed under this Act, by the hour, by the day or by such longer wage-period as may be prescribed, works overtime, the employer shall pay him for every hour or for part of an hour so worked in excess, wages at the rates fixed for overtime work under the Act or under any law of the appropriate Government in force, whichever is higher [Sec. 14 (1)].

The provisions of the minimum Wages Act, 1948 do not prejudice the operation of the provisions of Sec. 59 of the Factories Act, 1948 in any case where those provisions are applicable [sec .14 (2)].

Wages of worker who works for less than normal working day (Sec. 15)

Sometimes an employee whose minimum rate of wages has been fixed by the day may work on any day on which he was employed for as period less than the requisite number of hours constituting a normal working day. In that case he is entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day except—

- (1) where his failure to work is cause by his unwillingness to work and not by omission of the employer to provide him with work, and
- (2) in such other cases and circumstances as may be prescribed.

Wages for two or more classes of work (Sec.16)

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

Minimum time rate wages for piece work (Sec.17)

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under the Act, the employer shall pay to such employee wages at not less than the minimum time rate.

Maintenance of registers and records (Sec. 18)

- Every employer shall maintain registers and records giving particulars of employees employed by him, the work performed by them and such other particulars and in such form as may be prescribed [Sec. 18 (1)].
- He shall also keep exhibited notices in the prescribed form containing prescribed particulars in the prescribed manner in the factory, workshop or place where the employees in the schedule employment may be employed.
- In the case of out-workers, he shall keep these notices exhibited in such factory, workshop or place as may be used for giving out-work to them [sec. 18. (2)].
- The appropriate Government may, by rules made under the Act, provide for the issue of wages books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed.
- It may also prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent [sec. 18 (3)].

ENFORCEMENT OF THE ACT**(Secs. 19 TO 21)****Powers of Inspectors. An Inspector May—**

- (a) enter at all reasonable hours, with such assistants as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rate of wages have been fixed, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under the Act or rules made there under, and required the production thereof for inspection;
- (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom out-work is given;
- (c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;
- (d) seize or take copies of such register, record of wages or notices as he may consider relevant in respect of an offence under the Act which he has reason to believe has been committed by and employer; and exercise such other powers as may be prescribed [sec.

19