

MINIMUM WAGES ACT, 1948

Background

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 11.04.46 to provide for fixation of minimum wages in certain employments. It was passed in 1946 and came into force with effect from 15.03.48.

The Minimum Wages Act, 1948, safeguards the interests of the workers as they are vulnerable to exploitation due to illiteracy and lack of bargaining power and binds the employers to pay the minimum wages to the workers as fixed under the statute for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract. The provisions of the Act are gender neutral and thus do not discriminate between male and female workers.

Appropriate Government

Under the provisions of the Minimum Wages Act, 1948, both the Central and the State Governments are appropriate Governments to fix, review and revise the minimum wages of the employees employed in the scheduled employments under their respective jurisdiction. The appropriate Governments have been empowered to notify any employment in the schedule where the number of employees is 1000 or more in a State and fix the rates of minimum wages in respect of the employees employed therein. Presently, there are 45 scheduled employments in the Central Sphere.

Scheduled Employments for Which Central Government Has Fixed Minimum Wages 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, Unloading in Railways Goods Shed
43	Stone Breaking and Stone Crushing
44	Employment in Sweeping and Cleaning
45	Watch & Ward

Fixing of minimum rates of wages

Section 3(1) (b) of the Minimum Wages Act, 1948 mandates the Central Government and the State Governments to review the minimum rates of wages so fixed in the Scheduled employments in their respective jurisdiction at intervals not exceeding five years and revise the minimum rates, if necessary. Section 3(1) of the Act stipulating fixation/review/revision of the minimum rates of wages by the appropriate Government is reproduced below for ready reference:

Section 3. Fixing of minimum rates of wages.-

(1) The appropriate Government shall, in the manner hereinafter provided,--

(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27:

Provided that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause 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;]

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum

rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

The minimum rates of wages in the scheduled employments in the Central sphere were last revised by the Central Government in 2017.

Norms for fixation/revision of minimum rates of wages

The Minimum Wages Act, 1948 has neither defined minimum wages nor has it laid down any norms/criteria for fixing the minimum wages. In 2017, the minimum rates of wages for scheduled employments in the central sphere were revised based on the norms recommended by the Indian Labour Conference, in 1957 and on the basis of judgment of the Hon'ble Supreme Court delivered in the case of Reptakos & Co. Vs. its workers in the year 1992.

The norms recommended by the Indian Labour Conference, in 1957 for fixing the minimum wage are as follows: -

- a) 3 consumption units for one wage 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 wage.

Subsequently in 1992 the Hon'ble Supreme Court delivered a historic judgement in the case of Reptakos & Co. Vs. its workers directing that children's education, medical requirement, minimum recreation including festivals/ceremonies, provision for old age, marriage etc. should further constitute 25% of the minimum wage and be used as a guide in fixation of minimum wage.

Procedure for fixation/revision of minimum rates of wages

- i. By Committee method, or
- ii. By notification method.

Section 5 of the Minimum Wages Act, 1948 stipulates the following methods for fixation/revision of minimum wages.

In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either—

(a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(b) by notification in the Official Gazette, publish its proposals for the information of 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.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of subsection (1), the appropriate Government shall consult the Advisory Board also.

Provision of Variable Dearness Allowance (VDA)

In order to protect the minimum wages against inflation, the Central Government mooted the idea of Variable Dearness Allowance (VDA) in terms of recommendation of the Labour Ministers' Conference held in 1988. Accordingly, the appropriate Governments revise the minimum rates of wages from time to time as per the provisions of the Minimum Wages Act, 1948. In the Central sphere, VDA on the minimum rates of wages is revised effective from 1st April and 1st October every year.

National Floor Level Minimum Wage (NFLMW)

The concept of NFLMW dates back to 1991 when the National Commission on Rural Labour, chaired by Shri Jhinabhai Darjee, had inter-alia recommended that following the approach of Planning Commission in determining the poverty line in terms of Minimum consumption expenditure, and taking into account the average number of wage earners in an agricultural household and the number of days worked in a year by such earner, the daily wage rate comes to about Rs. 20 at current prices (1990). While this will be the floor level, the Government at the

Center and the State should be free to fix minimum wages above this level on the basis of skills, areas, occupations or employment or other local factors.

As a step towards moving for a uniform wage structure, as recommended by the NCRL, and to reduce the disparity in minimum wages across the country, the concept of National Floor Level Minimum Wage (NFLMW) was mooted on a voluntary basis. NFLMW is revised from time to time taking into account the increase in the Consumer Price Index Number for Industrial Workers. This may be seen from the following table:

Statement showing the year-wise change in NFLMW

S. No.	Year	NFLMW (inRs.) per day	Remarks
1.	1991	20/-	NCRL recommended
2.	1996	35/-	Central Government mooted the concept
3.	1998	40/-	Based on increase in CPI (AL)
4.	1999	45/-	-Do-
5.	2002	50/-	Based on increase in CPI(IW)
6.	2004	66/-	Based on increase in CPI(IW) and Report of the Working Group of the Ministry for the year 2003
7.	2007	80/-	Based on increase in CPI(IW)
8.	2009	100/-	-Do-
9.	2011	115/-	-Do-
10.	2013	137/-	-Do-
11.	2015	160/-	-Do-
12.	2017	176/-	-Do-

Since the NFLMW presently is a non-statutory measure, the State Governments are persuaded to fix/revise minimum wages in such a way that in none of the scheduled employments the minimum wage is less than NFLMW.

PAYMENT OF WAGES ACT, 1936

The Payment of Wages Act, 1936 regulates payment of wages to workers employed in industries and to ensure speedy and effective remedy to them against illegal deductions and/or unjustified delay caused in paying wages in current coin, or currency notes or by cheque or by crediting in the bank account of the workers.

The Payment of Wages (Amendment) Act, 2017- Section 6 of the Payment of Wages Act, 1936 has been amended on 16.02.2017 to enable making payment of wages in current coin or currency notes or by cheque or by crediting in the bank account of the workers. The amendment made also enables that the appropriate Government may, by notification in the Official Gazette, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in the bank account.

Provision for making payment only by cheque or by crediting in the bank account of an employee, in respect of industrial or other establishments namely Railways, Air transport services, Mines and Oil fields in the Central Sphere has been notified on 26.04.2017.

The wage ceiling for applicability of the Payment of Wages Act, 1936, was fixed at Rs. 1600/- p.m. in 1982. This wage ceiling has been periodically revised on the basis of the Consumer Expenditure Survey brought out by the National Sample Survey Office, after every five years. The Central Government has enhanced the wage ceiling from Rs.18,000/- to Rs. 24,000/- per month w.e.f. 29.08.2017 for applicability of the Act.

Enforcement of the Payment of Wages Act, 1936 and the Minimum Wages Act, 1948

The Government is committed to enhance the welfare and well-being of workers in the organised and unorganised sector and ensure implementation of the Payment of Wages Act, 1936 and the Minimum Wages Act, 1948. The enforcement of various labour laws including the Payment of Wages Act, 1936 and the Minimum Wages Act, 1948 is ensured 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.