

B.A. Part II (Economics Honours)
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Minimum Wage Legislation

Minimum wage rates in India are fixed under the Minimum Wages Act, 1948. Since labour is a concurrent subject under the Indian Constitution, minimum wage rates are determined both by the Central Government and the Provincial Governments. Minimum wage rates in India are declared at the national, state, sectoral and skill/occupational levels. Minimum wage rates may be established for any region, occupation and sector. Also, the minimum wage is established for trainees, youth and piece-rate workers. Minimum wage is determined by considering the cost of living.

Minimum rate of wages may consist of a basic rate of wages and a cost of living allowance; or a basic rate of wages, with or without the cost of living allowance, and the cash value of concessions in respect of the supply of essential commodities at concession rates (if authorized); or an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions (if any).

While fixing or revising minimum rates of wages, different minimum rates of wages may be fixed for different scheduled employments; different classes of work in the same scheduled employment; adults, adolescents, children and

apprentices; and different localities. The minimum wage rates may be fixed by hour, day, month or any such other larger wage period as may be prescribed.

Under the Minimum Wages Act, both the Central and State Governments may notify the scheduled employments and fix/revise minimum wage rates for these scheduled employments. The scheduled employments include both the agricultural and non-agricultural employments. Both the Central and State Governments are empowered to notify any employment (industry/sector) 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.

Minimum wage is announced for 45 scheduled employments in the Central Sphere while the State level minimum wage is determined by every state keeping in view the sectors more dominant in the State. Minimum wage is revised while considering the following five elements: three consumption units per earner; minimum food requirement of 2700 calories per average adult; cloth requirement of 72 yards per annum per family; house rent corresponding to the minimum area provided under the Government's Industrial Housing Scheme; fuel, lighting and other miscellaneous items of expenditure to constitute 20% of the total minimum wage; and 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 (the last component added by the Supreme Court in Reptakos Brett Vs Workmen case in 1991). Minimum wages may be reviewed at different intervals however such intervals cannot exceed five years.

The Minimum Wages Act provides for two methods of fixation/revision of minimum wages. Under the Committee Method, committees and sub-committees are set up by the Government to hold inquiries and make recommendations with regard to fixation and revision of minimum wages. Under the Notification method, government proposals are published in the Official Gazette for information of the persons likely to be affected 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 (Committee method) and all the representations received by the specified date (Notification method), the appropriate Government, by notification in the Official Gazette, fixes/revises the minimum wage in respect of the concerned scheduled employment which come into force on expiry of three months from the date of its issue.

In protecting the real wages against inflationary effects, the Central government provides for linking of Variable Dearness Allowance to the Consumer Price Index for industrial workers (CPI-IW). Most states provide for variable dearness allowance in revising the minimum wage. VDA is revised periodically twice a year effective from 1st April and 1st October.

Compliance with labour legislation including payment of minimum wages to workers is ensured by the labour inspectors, as are appointed under section 19 of the Minimum Wages Act 1948. In the event of non-compliance, fines, imprisonment and payment of arrears can be applied as per law. Section 22 of the

Minimum Wages Act stipulates that violators may be punished to pay fine (which may extended to 500 rupees) or imprisonment, which may extend to period of six months or both. The Authority (magistrate) may also require payment of arrears to the worker along with compensation for delay in payment of due wages. However, such extra compensation should not exceed 10 times the due amount. Similarly, an employer who fails to maintain a register or record as required under the law is liable for a fine of up to 500 rupees.

If a worker receives wages, which are less than the government declared minimum wages, he/she may file a complaint with the labour inspectorate. The complaint can be filed by the worker or through a legal practitioner, or an official of the registered trade union. The claims for any unpaid/due wages must be filed within 6 months of their becoming due.

The Code proposes that the central government fixes a floor wage, taking into account living standards of workers. The central government may set different floor level wages for different geographical areas. The central government may also obtain the advice of the Central Advisory Board (tripartite plus advisory body with representation from worker, employer and government groups as well independent persons) and may consult with state governments. Moreover, 33% of the total members on both the central and state Boards must be women. The Boards have the mandate to advise the respective governments on various issues including: (i) fixation of minimum wages, and (ii) increasing employment opportunities for women.

The minimum wages notified by the central or state governments must be higher than the floor level wage. Where the existing minimum wages are higher than the floor wage, these cannot be reduced.

The Wage Code prohibits employers from paying workers less than the minimum wages. Minimum wages notified by the government are either time based (number of hours of work) or per piece. The minimum wages must be revised and reviewed by the central or state governments at an interval of not more than 5 years. While fixing minimum wages, the central or state governments may take into account various factors such as: (i) skill of workers, and (ii) arduous nature of work.

The Code on Wages Bill, 2019 was passed by the Lok Sabha on July 30, 2019 and Rajya Sabha on 02 August 2019.

The Wage Code regulates wage and bonus payments in all employment. The Code combines the provision of the following four laws: (i) the Payment of Wages Act, 1936, (ii) the Minimum Wages Act, 1948, (iii) the Payment of Bonus Act, 1965, and (iv) the Equal Remuneration Act, 1976. The Wage Code repeals the above 4 laws.