

THE INTERPRETATION AND IMPLEMENTATION OF THE MINIMUM WAGES ACT, 1948

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INTRODUCTION

The Minimum Wages Act, of 1948 was enacted in order to ensure the social justice and economic well-being of the workers in India. The act plays a crucial role in developing fair pay arrangements ranging from agriculture and manufacturing to the service sector. Due to the changing character of the environment and the various demands of workers, numerous obstacles have been created in the implementation and interpretation of the Act.

The Act has provided a system for establishing different minimum wages for different classes of labour, classifying the workers as skilled, semi-skilled and unskilled labourers. So, it can be said that the Minimum Wages Act, of 1948 is a welfare law that aims at protecting the interests of workers from exploitation.

MEANING OF MINIMUM WAGES

Minimum wages can be defined as the minimal amount of payment that an employer is obliged to pay to the wage earner for the work done by him in a specific period of time. These wages cannot be reduced by a collective agreement or an individual contract. The main aim of the minimum wage is to safeguard these workers from exploitation and protect them from unfairly low pay. They also ensure that everyone gets a fair and equal share of benefits of progress, as well as a decent wage for everyone who is working and requires protection. Minimum wages can also be the policy that helps in eliminating poverty and inequalities, particularly between men and women.

The minimum wage policies must be specified and developed in order to complement and strengthen other social and employment policies such as Collective Bargaining which is used to establish employment in terms and conditions.

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HISTORY OF MINIMUM WAGES ACT

The initial phase of the Industrial Revolution widened the gap between the rich and the poor. The economically weaker were forced to work in factories in order to sustain themselves. This was exactly the time when the need to have a law was felt to protect the interests of such workers. In 1854 when the Industrial Revolution arrived, India was still a colony of the British. The 1st minimum wage debate came in response to the Draft Convention on Labor, which was adopted by the Royal Commission on Labor during the International Labor Conference of 1928. The Commission suggested that a structured wage system must be adopted for the labourers. In the 3rd and 4th meetings of the Standing Labor Committee, the question of wage fixing was brought up again. The Minimum Wages Bill was introduced in 1946 and passed into law in 1948. The Minimum Wage Act was originally implemented in 1948 and went into force on March 15. The Act also established the Tripartite Committee on Fair Wages. This group was constituted to establish minimum wage recommendations in India. It established the minimum wage and the standards for its calculation. It laid the groundwork for the wage-fixing mechanism in India. Salary levels are set based on the number of employees.

NEED FOR THE ACT

The exploitation of labourers became very common in India. These workers suffered both economically and socially. The state strived to eliminate poverty in order to rectify the situation. The government aims at fulfilling 2 goals by fixing the minimum wages i.e., the social objective of elimination of poverty as well as the economic objective of motivating the workers to work hard to achieve maximum benefits. These benefits include: -

1. Protecting the interests of the workers against exploitation.
2. Ensuring basic income.
3. Poverty elimination.
4. Promotion of economic stability.
5. Reducing income inequalities.
6. Setting up of labour standards.

OBJECTIVES OF THE ACT

The main objective of the Minimum Wages Act, of 1948 was:

- To determine a minimum salary that is adequate for all the workers in the public interest.
- To fix and amend minimum wages that the employers must pay their employees in specific employments.
- To prevent the exploitation of the workers.
- To fix the daily working hours of an employee based on their employment.
- To resolve the disputes that might arise due to non-payment or less payment of the salaries.
- To specify the powers and responsibilities of the authority.
- To provide the power to make rules to the appropriate government.

The Minimum Wages Act, of 1948 is applicable to the whole of India. Section 1A of the Act provides that the relevant authority can fix minimum wages for scheduled employment if more than 1,000 workers are working in that industry throughout the state. For jobs where there are less than 1,000 employees, the relevant government may set and amend minimum pay rates.

Section 3 of the Act provides that the appropriate government shall fix the minimum wages for the workers. Section 3(1) provides that the relevant government shall fix the minimum wage rate that must be paid to the workers covered by Part 1 and Part 2 of the Schedule of the Act and will review the wages every 5 years. Section 3(2) provides that the government will fix:

1. Minimum Time Rate
2. Minimum Price Rate
3. A guaranteed time rate
4. An overtime rate.

As directed by the relevant government the minimum wages can be determined on an hourly, daily or monthly basis, or on a flexible schedule.

The proviso to Section 3(1)(b) of the Minimum Wages Act of 1948 states that nothing in the Act prevents the appropriate government from reconsidering the minimum salary after five years if it is unable to do so within the time frame specified.

The Minimum Wages Act of 1948, in addition to fixing and amending the minimum wage rates, permits the appropriate government to set the number of working hours, minimum wages for overtime, inspector powers, authority for adjudicating dispute claims, and so on.

ADVISORY BOARD UNDER THE MINIMUM WAGES ACT, 1948

Section 7 of the act provides for the establishment of the Advisory Board. The Advisory Board that is nominated by the appropriate government is responsible for managing the committees and sub-committees created under section 5 of the Act. It is also responsible for advising the appropriate government on the determination of minimum wages for Scheduled Employment. Section 8 of the Act provides for the establishment of the Central Advisory Board (CAB) the members of the same will be appointed by the central government. The members will have equal employee and employer representation along with the independent members appointed by the central government. The chairman of the same will be an independent member. The main aim of the Central Advisory Board is to coordinate the working of the advisory board and other matters of such kind.

MODE OF PAYMENT

According to section 11 of the Act, all wages shall be paid in cash only. In a case where the wages are to be paid in kind partly, or wholly, due to some sort of old practice, the authorization of the appropriate government is necessary. This might involve concessions on vital commodities if required.

Section 12 of the Act establishes the manner in which the employer must make the payment of the minimum wage. The provision also provides that the employer must pay the minimum hourly wage to all the employees working for him within the time stipulated.

FIXING HOURS FOR A NORMAL WORKING DAY UNDER THE MINIMUM WAGE ACT, 1948

Section 13 of the act provides a manner in which the appropriate government must fix the working hours.

1. Fix working hours for a normal day including 1 or 2 specified intervals.
2. To provide a day of rest for the employee or the group of employees from the 7 working days and to provide adequate remuneration for that day of rest too.
3. To provide payment to the employees on the day of rest, which should not be less than the overtime rate.

Section 14 of the Act that where an employee works for more than the prescribed number of hours in a normal day then he is entitled to receive overtime wages at the rate set by the Act for each hour after his normal working hours. In the case where the employee works for fewer hours than prescribed still, he shall be entitled to receive the minimum wages fixed by the Act. However, this rule only applies if the decreased number of hours is not caused by the unwillingness of the employee. This clause is included in section 15 of the Act.

Section 18 of the Act requires all employers to maintain records and registers which must include the names of all the employees working for them. The record must include the particulars of the work accomplished by them; payment made by them, the receipts issued, or any other piece of information required by the appropriate authorities. The employer is also required to preserve an exhibit of the factory, workshop, or location where the scheduled employment is carried out.

PROCEDURE TO BE FOLLOWED BY THE AUTHORITY

Section 20 of the act provides the procedure to be followed by the authority. It must be noted that both the employer and the employee must be given an equal opportunity to present their case. The authority can order the refund of the wages that the employer has not paid to the worker or has delayed the payment, as well as the compensation for any damages that the worker has experienced. If the employer is successful in proving that the delay is caused due to a bona fide error, then the authority shall not direct the payment of compensation.

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PENALTIES UNDER THE ACT

A penalty of not more than fifty rupees shall be imposed for any malicious application of claim under this Act to be paid to the employer as provided in section 20(4) of the Act. Section 20(5) of the act provides for recovering the penalty. If the authority is Magistrate, then the penalty imposed shall be recovered as if it were a magistrate-imposed fine. If the authority is not a Magistrate, the authority must submit an application to the magistrate and the penalty will be recovered by the Magistrate as fine is levied by the Magistrate. Employers who pay less than the minimum wage under the Act or who violate an order issued under Section 13 of the Act may face a six-month sentence or a fine of up to five hundred rupees, subject to the amount of compensation awarded to the Applicant under Section 20 of the Act.

EXEMPTION FROM LIABILITY IN CERTAIN CASES UNDER THE MINIMUM WAGES ACT, 1948

Section 23 of the Act states that if an employer is accused of committing an offence under the Act and charges the offence against another person, the employer is entitled to be acquitted of such an offence if the following requirements are met:

1. The employer shall make a complaint against such other person before the authority of the Act.
2. The employer shall bring the person in court against whom he has placed the charge of such offence.
3. The employer must show the Court that necessary diligence for the execution of the provisions of the Act was done on his behalf.
4. The employer must convince the Court that the required diligence for the execution of the provisions of the Act occurred on his behalf.

In such circumstances, the other individual shall be guilty of the offence, and the employer shall be fired. If the Court thinks it necessary, it may question the employer under oath.

LIVING WAGE

The term "living wage" refers to the ideal income level that enables people or families to afford appropriate shelter, food, and other requirements. The main aim of the living wage is to ensure that every employee earns enough income for a satisfactory standard of living and that no one falls prey to poverty. A living wage considers essential expenses such as housing, clothing, food, education, healthcare, and overall standard of living. In contrast, minimum wages are based on labour productivity and skill levels, making living wages higher.

ISSUES IN IMPLEMENTATION OF THE MINIMUM WAGES ACT, 1948

Several activities have been excluded from the scheduled employment due to the criteria of over 1000 workers in a state. As a result, a number of workers are not covered under the Minimum Wages Act. According to the World of Work Report 2013, just 60% of wage earners in India, excluding public-sector workers, were covered by minimum wage legislation in the mid-2000s. The Act provides for the revision of the minimum wage rate every five years. However, this has not occurred due to the provision of maintaining existing tariffs and

associating them with VDA. The failure to link the minimum wage payments to changing dearness allowance has reduced workers' real wages and has kept them working in poverty. The lack of awareness among the employees and the workers has also been a major issue in the implementation of the provisions of the Act. Moreover, the compliance rate with the Minimum Wage Act is very low due to the poor implementation of the Act including the exemptions. The penalties for non-compliance are very low, they must be high in order to ensure the proper enforcement and implementation of the Act.

CONSTITUTIONALITY OF THE MINIMUM WAGES ACT, 1948

The constitutionality of the act has been challenged on the grounds of the violation of Article 14 and Article 19 of the Indian Constitution;

N.M. Wadia Charitable Hospital & Ors. v. State of Maharashtra & Ors. (1986)

In this case, the state of Maharashtra appointed a committee to advise the modifications of the minimum salaries of the hospital personnel. However, the government did not implement the minimum wages suggested by the committee but imposed higher minimum wages instead. The petitioner challenged the notification, but the court observed that setting up different minimum wage rates is permissible under the act and is not in violation of any constitutional restriction.

Bhikusa Yamasa Kshatriya v. Sangamner Akola Taluka Bidi Kamgar Union (1958)

In this case, the legitimacy of the Minimum Wages Act, of 1948 was challenged by the Hon'ble Bombay High Court. Several claims have been made under Section 20 of the Act about the applicability of minimum wage rates in particular regions of the State of Bombay. The constitutionality of the Act was challenged on the grounds that it was violative of Articles 14 and 19(1)(g) of the Constitution, and that the State of Bombay did not follow the proper method for calculating minimum wage rates. The court rejected the contentions of the employees and ruled that the petitioners failed to establish that the State of Bombay did not follow the proper procedure when determining and revising minimum wages and that the Act's provisions violated Article 14 or Article 19(1)(g) of the constitution.

JUDICIAL PRONOUNCEMENTS

Mohd Imran Ahmad v. Government of NCT of Delhi & Anr. (2023)

In this case, a PIL was filed against the government of NCT Delhi seeking the writ of Mandamus under Article 226 of the Constitution. The Delhi government made an online portal for job opportunities. The petitioner claimed that the advertisements on that portal do not comply with the provisions of the Minimum Wage Act, of 1948. So, the employers could use the platform to advertise job openings. The Court ordered the Government of the NCT of Delhi to prohibit any ads that do not comply with the terms of the Minimum Wage Act 1948.

Karnataka General Labour Union v. Union of India & Ors. (2023)

In this case, the Labor Union was seeking relief from both the contractual employee layoff and non-payment. Several actions were filed under the Minimum Wage Act of 1948 to seek redress through conciliation. The conciliation processes were unsuccessful because the respondent refused to comply. The case was presented to the Hon'ble Karnataka High Court. The Labour Union maintained that the respondents were bound by the undertaking given to the conciliator and that any violation of the same must not be accepted. On the other side, the respondents contended that the Labour Union misrepresented themselves as permanent employees of the respondents, and so the lawsuit should be dismissed. The Court also directed the conciliator to settle the issue regarding the payment of minimum wages to the workers.

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CONCLUSION

The Minimum Wage Act, of 1948 is a landmark legislation in India's labor regulation. It guarantees a minimum remuneration for the work performed by the employee. Because labour law is a subject on the Concurrent List, both the Central and State Governments are suitable governments under this Act. As a result, both governments can set and change minimum salaries based on the needs of the employees who come under them. Furthermore, State governments can change the Act to apply in their states. Aside from minimum wage regulations, the Act also includes measures for determining work hours, offering a day off after six days of work, providing minimum wages for overtime, and so on. This ensures that both the economic and social interests of the workers are protected.