

Government of India
Ministry of Labour & Employment

Shram Shakti Bhawan, Rafi Marg
New Delhi, Dated:- 17.06.2014

OFFICE MEMORANDUM

Subject:-Inviting comments/suggestions on the proposed amendments to the Minimum Wages Act, 1948.

The Ministry of Labour and Employment proposes to amend the Minimum Wages Act, 1948. In this regard, important developments alongwith the tabulated statement on comprehensive amendments to the Act have been uploaded on the website of Ministry of Labour and Employment for <http://labour.nic.in>. It is requested that the comments on the proposed amendments may be sent to the undersigned at Ministry of Labour & Employment, Room No.316, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001 by 30.06.2014.



(Dr. D. Chaudhuri)
Deputy Director General

Brief on Minimum Wages(Amendment) Bill, 2013

Minimum Wages Act was enacted in 1948 mainly to protect the interests of the workers engaged in the unorganized sector. Marked variation is observed in the minimum wages prevailing for the same employments in different parts of the country. The Act has not been amended in recent years except in 1986 and 2005.

2. The present amendment proposals are intended to address some of these concerns. The highlights of the amendment proposals are as follows:-

- (a) To fix statutory National Floor Level Minimum Wages (NFLMW) for all employments and across all States/UTs.
- (b) To cover all the employments under the Minimum Wages Act.
- (c) To enhance the penal provisions of the Act in respect of the amount of fine and in the imprisonment term for non enforcement of the Act.
- (d) To extend the claim period and hike the compensation amount payable to the workers;

Important Developments: -

1. The Government mooted the amendment proposals to the Act which was discussed in the meeting of Central Advisory Board (CAB) held in June, 2005 and subsequently in the 40th Session of Indian Labour Conference (ILC) held in December, 2005.
2. The amendment proposals were discussed by the CAB in its meetings held in February, 2008 and July, 2008 and finalized in consultation with the Office of Chief Labour Commissioner (Central).
3. Based on the recommendations of the CAB, a Draft Note for the Cabinet was circulated in January, 2010 inviting comments/suggestions from all Ministries/Departments and State Governments/Union Territory Administrations.
4. The proposals were discussed in the meeting of CoS held on 18th March, 2010 under the Chairmanship of Cabinet Secretary. It was decided that an Inter-Ministerial Group (IMG) may be constituted with the MOL&E in the lead, to study the impact of the proposal on the national economy.

5. The first meeting of the IMG was held on 16th April, 2010, wherein it was decided that the V.V. Giri National Labour Institute would carry out an impact study relating to the impact of providing statutory status to NFLMW on the national economy.
6. The V.V. Giri National Labour Institute (NLI) conducted the impact study which was discussed in the second meeting of the IMG held in October, 2010. In the meeting, it was decided that the Ministry will place the NLI Report as well as the observations made by the representatives IMG before COS at the earliest.
7. The COS met again on 2nd May, 2011 to consider the Report of the NLI. Most of the Ministries were in agreement with the proposal
8. The amendment proposals were again discussed in the CoS meeting held on 24.8.2012 under the Chairmanship of Cabinet Secretary. The CoS, inter-alia, recommended that the amendment proposal to make NFLMW statutory and other amendments to the MW Act may be discussed in the State Labour Ministers' Conference.
9. As recommended by CoS, the amendment proposals were discussed in the State Labour Ministers' Conference held on 27.09.2012 which broadly endorsed the proposals.
10. The proposal for amending the Act was considered by the Cabinet on 21.02.2013. The proposals were approved by the Cabinet with the direction that a suitable Bill may be prepared in consultation with Ministry of Law and Justice, Legislative Department and the proposal be brought for its consideration at an early date.
11. Accordingly, a draft Bill has been prepared by the Legislative Department of the Ministry of Law and Justice in consultation with the Ministry of Labour and Employment.

Statement showing existing provisions, proposed amendments is annexed.

Sl. No.	Existing Provision	Proposed Amendments	Reasons
(1)	(2)	(3)	(4)
1	<p>Section 3(1)(a): The appropriate Government shall, in the manner hereinafter provided,-</p> <p>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:</p>	<p>The appropriate Government shall, in the manner hereinafter provided,-</p> <p>(i) 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:</p> <p><i>The Central Government may after every five years, review and revise the National Floor Level Minimum Wage on the basis of the Consumer Expenditure Survey published by the National Sample Survey Organisation; by notification in the official gazette;</i></p> <p>AND</p> <p><i>The National Floor Level Minimum Wage would be revised every six months effecting April and October on the basis of</i></p>	<p>Wages need regular revision with reference to the rise in Consumer Price Index number for which the Consumer Expenditure Survey is conducted periodically by the National Sample Survey Office (NSSO).</p>

		<p><i>rise in consumer price index number for industrial workers by way of order to be issued by the Chief Labour Commissioner (Central)</i></p> <p>AND</p> <p><i>The minimum rates of wages for workers engaged in employments in Part I or Part II of the Schedule in the Central and State sphere shall not be less than the National Floor Level Minimum Wages, as notified by Central Government;</i></p> <p>AND</p> <p><i>the lowest rates of wages fixed for the unskilled category of workers employed in the employments under Part I or Part II of the Schedule or the National Floor Level Minimum Wage, so notified, whichever is higher, shall be applicable for "Any Employment other than that covered above" as included in Part I or Part II of the Schedule.</i></p>	
2	<p>Section 3(1)(b): Review/revision of minimum rates of wages at intervals not exceeding '5 years'.</p>	<p>Review/revision of minimum rates of wages at intervals not exceeding '5 years', <u>if the minimum wage has a component of Variable Dearness Allowance worked out on the basis of rise in</u></p>	<p>To protect the wages from erosion due to inflation by ensuring that they are reviewed and revised periodically.</p>

		<u>Consumer Price Index Numbers for Industrial Workers; otherwise 'two years' shall be added.</u>	
3	Section 3(1A): Notwithstanding anything contained in sub-section (1), 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 one thousand employees engaged in such employment, but if at any time, the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment [as soon as may be after such finding].	<u>Proposed to be deleted.</u>	To provide universal coverage.
4	Section 3(2A): Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing	Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 (14 of 1947) or before any like authority under any other law for the time being in	To protect the interest of the employees by providing them revised minimum wages during the pendency of the dispute.

	<p>or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so <u>revised shall not apply</u> to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.</p>	<p>force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so <u>revised shall apply</u> to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period shall be substituted.</p>	
5	<p><u>Section 3(3)(a)(iii)</u>: Fixation of different rates of wages for adults,</p>	<p><u>Proposed to be deleted.</u></p>	<p>To remove the disparity in</p>

	adolescents, children and apprentices.		payment of wages
6	Section 8(2): The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.	<i>"PROVIDED that all scheduled employments need not be individually represented in the Advisory Boards/Committees/ Sub-Committees." shall be added.</i>	Simplification of the procedure
7	Section 9: Composition of committees, etc.-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 one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.	<i>"PROVIDED that all scheduled employments need not be individually represented in the Advisory Boards/ Committees/ Sub-Committees." Shall be added.</i>	Simplification of the procedure
8	Section 18(3): The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the	<i>"provide for issue of wage books or wage slips or <u>wage cards</u> to employees employed in any scheduled employment <u>by the employer</u>" and "authenticated in such wage books or wage slips or <u>wage cards</u> by the employer or his agent" shall be substituted.</i>	To provide additional facility for authentication of payment to employees.

	employer or his agent.		
9	Section 20(1): The appropriate Government may, by notification in the Official Gazette, appoint [any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or any officer of the State Government not below the rank of Labour Commissioner or any] other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate	The appropriate Government may, by notification in the Official Gazette, appoint "[any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region, or <i>the labour officers of equivalent rank/status in Central Government/State Governments or any other Officer having at least two years experience in the related field or any</i>] or other officers with experience as a Judge of a Civil Court or as a Executive or Judicial Magistrate" shall be substituted.	To provide wider choice to the appropriate government to appoint authorities to ensure compensation under the Act.
10	Section 20(2): Provided that every such application shall be presented within six months from the date on which the minimum wages [or other amount] became payable: Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that presented within six months from the date on which the minimum wages [or other amount] became payable: Provided further that any application within such period.	The said period enhanced to <u>twelve months</u> .	To make the rule more flexible and provide longer time for the employee to file claim.
11	Section 20 (3)(ii): in any other case,	in any other case, the	Revision required

	the payment of the amount due to the employee, together with the payment of such compensation as the Authority may think fit, not exceeding ten rupees	payment of the amount due to the employee, together with the payment of such compensation as the Authority may think fit, not exceeding <u>one hundred rupees</u> shall be substituted.	in the quantum of compensation over the passage of time.
12	Section 20 (5)(b): if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.	<i>"the Authority may issue a certificate under his signature to the District Collector/Magistrate or any other authorised officer on his behalf specifying the amount of claims arising out of non-payment of minimum rates of wages or payment less than the minimum rates of wages including fine and who on receipt of such certificate shall proceed to recover the amount specified therein from the employer as arrears of land revenue."</i> shall be substituted.	To bring about more clarity in the procedure for recovery of dues from the employer.
13	Section 20 (7): Every Authority appointed under sub- section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of	Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil	Revised with reference to 1973 amendment in the code of criminal procedure.

	1898).	Court for all the purposes of section 195 and <u>Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)</u> " shall be substituted;	
14	Section 21(1): Single application in respect of a number of employees (Subject to such rules as may be prescribed, a single application) may be presented under Section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of Section 20 shall not exceed 10 times the aggregate amount of such excess (or Rs. 10 per head as the case may be).	Single application in respect of a number of employees (Subject to such rules as may be prescribed, a single application) may be presented under Section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of Section 20 shall not exceed 10 times the aggregate amount of such excess (or <u>one hundred rupees per head</u>) shall be substituted.	Revision required in the quantum of compensation with the passage of time.
15	Section 22: Any employer who-- (a) pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act, or (b) contravenes any rule or order made under section 13, shall be	Any employer who-- (a) pays to any employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act,	To ensure that the employer complies with the provision of the Act by making it more deterrent.

	<p>punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both: Provided that in imposing any fine for an offence under this section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.</p>	<p>or (b) contravenes any rule or order made under section 13, "shall be punishable with imprisonment for a term which may extend to six months <u>or with fine of rupees five thousand</u> or both on first conviction and for second and subsequent contraventions, penalty shall be imprisonment <u>upto one year or a fine of five thousand rupees to ten thousand rupees or both</u>" shall be substituted.</p>	
16	<p>Section 22 A: Any employer who contravenes any provision of this Act or of any rule or order made there under shall, if no other penalty is provided for such contravention by this Act, be punishable with fine which may extend to five hundred rupees.</p>	<p>"Any employer who contravenes any provision of this Act or of any rule or order made there under shall, if no other penalty is provided for such contravention by this Act, be punishable <u>with a fine upto rupees five thousand for the first conviction and a fine of five thousand rupees to ten thousand rupees on subsequent contraventions</u>" shall be substituted;</p>	<p>To ensure that the employer complies the provision of the Act by making it more deterrent.</p>
17	<p>Section 27: The appropriate Government, after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in</p>	<p>The appropriate Government, after giving by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by like notification,</p>	<p>To make the provision of the Act universal.</p>

	<p>respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly.</p>	<p><i>“add or alter or delete or modify to either part of the Schedule any employment”</i> in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly shall be substituted.</p>	
18	<p>Section 28: Power of Central Government to give directions.- The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.</p>	<p>Power of Central Government to give directions or delegation of powers. -The Central Government may give directions <u>or delegation of powers to State Governments/Union Territory Administrations by notification in the Official Gazette for effective implementation to various provisions of the Act</u> as to the carrying into execution of this Act in the State.</p> <p>AND</p> <p><i>The Minimum Wage of any similar scheduled employment notified by the State are higher in comparison to Central sphere such Minimum Wages will be applicable for Central sphere.</i></p>	<p>On the advice of the Ministry of Law & Justice with which the Ministry is in agreement, the amendment proposal has not been included in the draft Bill. As per existing provision there already lies the power with Central Government to give necessary direction to States.</p> <p>To provide the benefit of higher minimum wages to</p>

		<p>AND</p> <p><i>The Minimum Wage in respect of Scheduled Employment which has been notified by State Government but not covered in Central sphere, shall be applicable in Central sphere shall be added.</i></p>	<p>the worker.</p>
19	<p>Section 2(b): “appropriate Government” means- (i) in relation to any scheduled employment carried on by or under the authority of the [Central Government or railway administration], or in relation to a mine, oil-field or major port, or any corporation established by [a Central Act], the Central Government, and</p> <p>(ii) in relation to any other scheduled employment, the [State Government];</p>	<p>“appropriate Government” means- (i) in relation to an establishment in which the appropriate Government under the Industrial Dispute Act, 1947, is the Central Government, and</p> <p>(ii) in relation to any other establishment, the government of the State in which that other establishment is situated.</p>	<p>Enforcement machinery for the Industrial Dispute Act, Contract Labour Act and Minimum Wages Act would be the same and would ensure that the provisions of the Minimum Wages Act are better enforced by the appropriate government. (<i>The amendment proposal has not been discussed in any appropriate forum</i>)</p>