**MINIMUM WAGES ACT, 1948**

Minimum wage rates in India are fixed under the Minimum wages Act, 1948 and is determined both by the Central Government and the Provincial governments. Minimum wage rates may be established for any region, occupation, and sector and declared at the national, state, sectoral and occupational levels. The minimum wages are determined by considering cost of living.

While fixing the minimum wage rate, it may be set for different work classes in the same scheduled employment or set for different scheduled employments. It may also be fixed by hour, day, month or any other wage period.

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.

There are two methods for fixing/revising minimum wages:

1. Under the committee method, the government sets up committees and subcommittees to hold inquiries and recommendations for fixing and changing minimum wages.
2. In the notification method, government proposals get published in the Official Gazette for persons who are likely to be affected and specifies a date (not less than two months from the time of the notification) where the proposals are taken into consideration.

The government after considering the advice of committees and all the representations received by the specified date, fixes /revise the minimum wage of the concerned scheduled employment which comes into force after three months from the date of its issue.

## **The objective of the Act**

The objective of the Minimum of Wages Act, are as follows:

* To give minimum wages to the workers working in the organized sector (scheduled employment).
* To stop the exploitation of workers.
* To empower the government to take steps for fixing minimum wages and to revise these wages within five years.
* To provide for the appointment of Advisory committees and Advisory Boards, having equal representatives of employers and workers.

## **Applicability of the Act**

The Minimum of Wages Act applies to the following entities:

* It applies to all over India except Jammu and Kashmir.
* It applies to any employment if it employs 1000 employees in the respective state.
* It does not apply to any employees in any undertaking owned by the Central Government or of the federal railway, except with the consent of the central government.

## **Wages under Section 2 of the Act**

Wages means all remuneration, capable of being represented in money. It covers house rent allowance but does not include the

* Value of house accommodation, the supply of electricity, water, medical attendance.
* The value of any other amenity provided is excluded by the Government order.
* Any contribution to the pension fund, provident fund or insurance.
* Allowance for traveling.
* Special expenses acquired by the nature of employment.
* Gratuity is payable on discharge.

## **Fixation and Revision of Minimum Wages**

The minimum rates of wages will be reviewed or revised, for every five years, by the appropriate government.

The appropriate government can add any employment, to the schedule (part-I or part – II), wherein one thousand or more employees are found working.

Different minimum rates of wages can be fixed for different scheduled employments/ different classes of work /different localities.

## **Minimum Rates of Wages**

Any minimum rate of wages fixed or updated by the appropriate Government in respect of scheduled employments under section 3 consists of

* The basic rate of wages and a special allowance which varies with the cost of living index.
* The basic rate of wages with or without allowance for the cost of living allowance based on the cost of living index number.
* All-inclusive rate is allowing for the basic rate of wages with the cost of living allowance and cash value of concessional supply of materials.

## **Procedure for Fixing and Revising Minimum Wages**

There are two different modes of procedure for Fixing and Revising Minimum Wages under Section 5. The main aim of both the procedures is to empower the Government to reach a favorable result about Fixation of a Minimum Wage.

The Two Modes are as follows:

### ****Appointment of Committee****

The Appropriate Government should appoint as many Committees or Sub- Committees as to hold necessary inquiries for Fixation of Minimum Rates of Wages.

### ****Publication of Proposals in the Official Gazette****

The Appropriate Government by notification in the Legal Gazette publishes its Proposals for the Information of the person who is likely to be affected by the Fixation of Minimum Rates of Wages.

## **Responsibility for Payment of Wages**

Every employer is responsible for the payment to the persons employed by him are required to pay wages under this Act:

* Wages provided in case of persons employed other than [contract](https://www.indiafilings.com/learn/contract-labour-act/) works in factories by a person who has been named as the manager of the factory under section 7 of the Factories Act.
* In the case of industrial or other establishments, the person responsible to the employer for the supervision and control of the industrial or the industrial or other establishment is eligible to provide wages.
* In case of persons employed in railways other than persons in factories, the railway administration and the administration who has nominated a concerned person in behalf of the employer for the local area is responsible for providing wages to the employees.

## **Registers and Records under Section 18**

Every employer must maintain records and registers regarding particulars about the following:

* Employees details who have been employed by the employer.
* Work performed by the employees
* The wages paid to the employees.
* The receipts provided by the employer.
* Every employer should hold the notices exhibited in such factory, workshop or place as used for giving work to employees.
* The appropriate government can provide for the issue of wages books or wage slips to employees as per the rules made under the Act.

## **Time of payment of wages**

The wages of every person employed in any railway, factory or industrial or other establishment or in which less than one thousand persons are engaged in the workplace has to be paid with wages to employees before the expiry of the seventh day from the month.

Any other railway, factory or industrial or other establishment has to be paid with wages before the expiry of the tenth day from the month and also can be paid after the last day of the payment in respect of which the wages are usually payable.

## **Method of Payment of Wages**

Wages need to be paid in current coin or currency notes or both. Wages can also be paid by cheque or by crediting them in the bank account if so authorized in writing by an employed person.

## **Deduction under Section 7**

As per the provisions under section 7(1) says that every payment made by the employed person to the employer or his agent will be deemed to be the deduction from wages of this act.

## **Authorized Deductions from Wages**

The wages of an employed person have to be paid to an employee without deductions except in case of those authorized deductions from wages under this Act are represented below.

* Deductions from wages for fines.
* Deductions from wages for absence from duty.
* Deductions from wages for damage to or loss of goods of the employed person.
* Deductions from wages for house-accommodation supplied by the employer.

### ****Deductions for absence from duty****

Deductions can be performed in the absence of an employee for the whole or any part of the time during which he is required to work.

If ten or more person employed remains absent, then the deduction from the payment of wages should not exceed his wages for eight days.

### ****Deduction for damage or loss****

In case of any damage or loss performed by the employee for an employer in such cases deduction made from the wages of an employee should not exceed the amount of the damage or loss caused to the employer. Then the employee can apologies for the reason for this cause. And all such deduction has to be recorded in a register.

### ****Deductions for recovery of Advance****

The deduction can be made in case of recovery of advance given before employment can be made from the first payment. The deduction can be made in case of recovery of an advance given after employment can subject to such conditions as the Appropriate Government may impose.

## **Penalties**

The fine or penalties cannot be imposed on any employed person in respect of omissions of such acts by the employer, with the previous approval of the State Government or the prescribed authority specifying in the form of notice under sub-section (2).

A notice specifying such acts and omissions can be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of a person employed upon a railway (otherwise than in a factory), at the prescribed place or places.

The fine cannot be imposed on any employed person until he has been with the reason against the fine or following such procedure as may be prescribed for the imposition of fines.

The total amount of fine which can be imposed in any one wage-period on any employed person should not exceed an amount equal to 3% of the wages payable to him in respect of that wage-period.  The fine cannot be imposed on any employed person who is under the age of fifteen years.

## **The authority under Payment of Wages**

### ****Appointment****

The appropriate government by notification in the legal gazette may appoint the following officers are listed below.

* The presiding officer of any Labour court.
* The presiding officer of any Industrial tribunal.
* Any Commissioner for Workmen’s Compensation.
* Any officer with experience as a Judge of a Civil Court or as a Judicial Magistrate to be the ‘Authority’ to hear and decide the claims arising out of deductions from the wages, or delay in payment of the wages of employed persons.

### ****Application****

Where payment of wages have been delayed, or any deduction has been made from wages, the request can be made to the Authority by the Person himself or any legal practitioner or any official of a registered trade union, duly authorized in writing or an inspector under this Act or any other person acting with the permission of the authority.

### ****Process****

* The prescribed authority can hear the applicant and the employer or another person responsible for the payment of wages.
* The Authority will direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation.
* The compensation should not exceed ten times the amount deducted in the former case and not exceeding 3000 rupees but not less than 1500 rupees.
* No compensation can be made in the case of delayed wages if the authority is satisfied with
* The delay was due to bonafide error or dispute as to the amount payable to the employed person.
* The person responsible was unable to make the payment due to exceptional circumstances, even though exercised due diligence.
* The delay was due to the failure of the employed person to apply for or accept payment.

## **Appeal**

An appeal against an order of the Authority should be made within 30 days of the date of the concern order or direction, before Court of Small Causes and otherwise before the District Court.