

Bill No. XV of 2019

THE MINIMUM WAGES (AMENDMENT) BILL, 2019

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BILL

further to amend the Minimum Wages Act, 1948.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:

1. (1) This Act may be called the Minimum Wages (Amendment) Act, 2019.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

11 of 1948. 5

2. In section 2 of the Minimum Wages Act, 1948 (hereinafter referred to as the principal Act),—

Amendment of
section 2.

(i) for clause (b), the following clause shall be substituted, namely:

"(b) "appropriate Government" means—

(i) in relation to any scheduled or *unscheduled* employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a mine, oilfield or major port, or any corporation established by a Central Act, the Central Government, and

(ii) in relation to any other scheduled or *unscheduled* employment, the State Government."

(ii) for clause (e), the following clause shall be substituted, namely,—

"(e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled or *unscheduled* employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled or *unscheduled* employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 as manager of the factory;

(ii) in any scheduled or *unscheduled* employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(iii) in any scheduled or *unscheduled* employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iv) in any other case where there is carried on any scheduled or *unscheduled* employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;"

(iii) after clause (g), the following clause shall be inserted, namely,—

"unscheduled employment" means an employment which is not listed in the Schedule, including all types of casual and contract labour."

(iv) for clause (i), the following clause shall be substituted, namely,—

"(i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled or *unscheduled* employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the Union."

Amendment of section 3.

3. In section 3 of the principal Act, (i) in sub-section (i), in clause (a) after the proviso the following provisos shall be inserted, namely:—

“Provided further that the minimum rates of wages fixed in accordance with the provisions of this Act, shall not less than eighteen thousand rupees per month.”:

Provided also that, for any employment not specified in Part I or Part II of the Schedule, the minimum wage shall not be less than eighteen thousand rupees per month."

(ii) in sub-section (1A) the following proviso shall be inserted, namely:—

"Provided that, where the appropriate Government has refrained from fixing the minimum rates of wages as aforesaid, the minimum wage that is paid by the employer shall not be less than eighteen thousand rupees per month."

4. In section 5 of the principal Act, after sub-section (2), the following clause shall be inserted, namely:— Amendment of section 5.

"(3) The procedures referred to in sub-section (1) shall be undertaken at least once every five years, from the date of the coming into force of this provision."

5. In section 8 of the principal Act, for sub-section (2), the following clause shall be substituted, namely:— Amendment of 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 and unscheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members, including at least one economist of repute; one of such independent persons shall be appointed the Chairman of the Board by the Central Government."

6. In section 12 of the principal Act, after sub-section (2) the following sub-section shall be inserted, namely:— Amendment of section 12.

"(3) The provisions of sub-section (1) of section 12 shall apply *mutatis mutandis* to unscheduled employment, for which no notification under section 5 is in force."

7. In section 18 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 18.

"(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled or unscheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars."

8. For section 21 of the principal Act, the following shall be substituted, namely:— Amendment of section 21.

"**21.** (1) 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 or unscheduled 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 ten times the aggregate amount of such excess or ten rupees per head, as the case may be. Single application in respect of a number of employees.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled or unscheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly."

9. In section 26 of the principal Act, for sub-sections (2) and (2A), the following sub-section shall be inserted, namely:— Amendment of section 26.

"(2) The appropriate Government may, if for special reasons it thinks so fit, by notification in the Official Gazette, direct that subject to such conditions and for such period as it may specify the provisions of this Act or any of them shall not apply to all

or any class of employees employed in any scheduled or unscheduled employment or to any locality where there is carried on scheduled or unscheduled employment.

(2A) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled or unscheduled employment generally or in a scheduled or unscheduled employment in a local area or to any establishment or a part of any establishment in a scheduled or unscheduled employment, it is not necessary to fix minimum wages in respect of such employees of that class or in respect of employees in such establishment or such part of any establishment as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees."

STATEMENT OF OBJECTS AND REASONS

The Minimum Wages Act of 1948 was enacted to provide a floor rate of wages that would allow all workers to lead a dignified life. It has been found that by virtue of the limited coverage afforded by the Act, vast swathes of employment are left outside its provisions. Due to the rise in Consumer Price Index (CPI) over the recent years, workers across the country have been finding it difficult to lead a life that provides them the dignity as envisaged in the Constitution under Article 21. This has affected the lakhs of contract labourers and casual workers whose salary is not even connected to the CPI. Trade unions across the country have been demanding a minimum wage of rupees eighteen thousand across all sectors of employment which was also recommended by the Seventh Pay Commission.

The Seventh Pay Commission Report recommended that the minimum wage for government employees be fixed at rupees eighteen thousand per month. In view of the recommendation of the Seventh Pay Commission, the objective of this Bill is to bring non-governmental workers at par with government employees, by fixing a floor minimum wage of rupees eighteen thousand, and also to extend the reach of the Act to hitherto unprotected sections of the workforce, by making its provisions applicable to employment that is not covered under the Schedule.

The Bill seeks to achieve the above objects.

BINOY VISWAM

FINANCIAL MEMORANDUM

The provisions of the Bill provide that under no circumstances the minimum rates of wages shall be less than eighteen thousand rupees per month in any Scheduled or unscheduled employment. As the Central Govt. is also one category of an employer under the Principal Act, it is estimated that an amount of Rupees Five Hundred crores per annum approximately would be required for the purpose which would be of recurring nature and will be met from the Consolidated Fund of India.

ANNEXURE

EXTRACTS FROM THE MINIMUM WAGES ACT, 1948

(11 OF 1948)

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2. In this Act, unless there is anything repugnant in the subject or context,— Interpretation.

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(b) "appropriate Government" means,—

(i) in relation to any scheduled employment carried on by or under the authority of the [Central Government or a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by [a Central Act], the Central Government, and

(ii) in relation to any other scheduled employment, the State Government;

* * * * *

(e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under [clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;

(ii).....

(iii).....

(iv).....

* * * * *

3. (1) The appropriate Government shall, in the manner hereinafter provided,— Fixing of minimum rates of wages.

[(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 par thereof;]

(IA) 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].]

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Central
Advisory
Board.

8. (1) For the purpose of advising the Central and State Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employees 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.

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Payment of
minimum rates
of wages.

12. (1) Where in respect of any scheduled employment a notification under section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (4 of 1936).

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Maintenance
of registers and
records.

18. (1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(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 employer or his agent.

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Single
application in
respect of a
number of
employees.

21. (1) [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 ten times the aggregate amount of such excess [or ten rupees per head, as the case may be].

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

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Exemptions
and
exceptions.

26. (1) The appropriate Government may, subject to such conditions if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate Government may, if for special reasons it thinks so fit, by notification in the Official Gazette, direct that [subject to such conditions and] for such period as it may specify the provisions of this Act or any of them shall not apply to all or any

class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

[(2A) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area [or to any establishment or a part of any establishment in a scheduled employment], it is not necessary to fix minimum wages in respect of such employees of that class [or in respect of employees in such establishment or such part of any establishment] as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees.]

(3) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

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RAJYA SABHA

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BILL

further to amend the Minimum Wages Act, 1948

(Shri Binoy Viswam, M.P.)