

FORM V

Notice [Rule 23(1)]

Abstract from the Minimum Wages Act, 1948 and the rules made thereunder

I.WHOM THE ACT AFFECTS

- (a) The Act applies to persons engaged on scheduled employments on specified class of work in respect of which minimum rates of wages have been fixed.
- (b) no employee can give up by contract or agreement his rights in so far as it purpose to reduce the minimum rates of wages fixed under the Act.

II.DEFINITION OF WAGES

1. "Wages" means all remuneration payable to an employed person on the fulfillment of his contract of employment (and include house rent allowance).
If excludes:
- (i) The value of any house accommodation, supply of light, water, medical attendance or any other amenity or any service extensions by general or special order of the appropriate Government.
- (ii) Contribution paid by the employer to any pension fund, provident fund or under any scheme of Social Insurance;
- (iii) The travelling allowance or the value of any travelling concession;
- (iv) The sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.
- (v) Gratuity payable on discharge.
2. The minimum rate of wages may consist of:
- (i) A basic rate of wages and a special allowance called the cost of living allowance.
- (ii) A basic rate of wages with or without a cost of living allowance and the cash value of any concessions like supplies of essential commodities at concession rates;
- (iii) In all inclusive rate comprising of basic rate cost of living allowance and cash value of concessions, if any;
3. The minimum wages payable to employee of scheduled employment notified under section 5 read with section 3 or as revised from time to time under section 10, read with section 3, may be;
- (a) A minimum time rate,
- (b) A minimum piece rate,
- (c) A guaranteed time rate,
- (d) An over-time rate,
differing with
- (1) different scheduled employments;
- (2) different classes of work,
- (3) different localities
- (4) different wage periods,
- (5) different age groups;

III. COMPUTATION & CONDITIONS OF PAYMENT

The employer shall pay to every employee engaged in scheduled employment under him wages at a rate not less than the minimum rate of wages fixed for the class of employees.

The minimum wages payable under this Act shall be paid in cash unless the Government authorizes payment thereof either wholly or partly in kind.

Wages period shall be fixed for the payment of wages at intervals not exceeding one month or such other larger period as may be prescribed.

Wages shall be paid on a working day within seven days of the end of the wage period or within ten days if 1000 or more persons are employed.

The wages of a person discharged shall be paid not later than second working day after his discharge.

If an employee is employed on any day for a period not less than the normal working day, he shall be entitled to receive wages for a full normal working day provided his failure to work is not caused by his unwillingness to work but by the omission of the employer to provide him with his work for that period.

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect or the time respectively occupied in each such class of work wages at not less than the minimum rate in force in respect of each such class.

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed the employer shall pay to such employee wages at not less than the minimum time rate.

IV. HOURS OF WORK AND HOLIDAYS

The number of hours which shall constitute a normal working day shall be:

(a)	In the case of adult	9 hours
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(b)	In the case of a child	4½ hours
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The working day of an adult worker inclusive of the intervals of rest shall not exceed 12 hours on any day.

The employer shall allow a day of rest with wages to the employees every week. Ordinarily, Sunday will be the weekly day of rest, but any other day of the week may be fixed as such rest day. No employee shall be required to work on a day fixed as rest day, unless he is paid wages for that day at the overtime rate and is also allowed a substituted rest day with wages. (see rule 24)

When a works in an employment for more than nine hours on any day or for more than forty-eight hours in a week he shall in respect of overtime work, he is entitled to wages in scheduled employment other than agriculture, at double the ordinary rate of wages.

V. FINES AND DEDUCTIONS

No deduction shall be made from wages except those authorized by or under the rules.

Deductions from the wages shall be one or more or the following kinds, namely;

- (i) Fines
An employed person shall be explained personally and also in writing the act or omission in respect of which the fine is proposed to be imposed and given an opportunity to offer any explanation in the presence of another person. The amount of the said fine shall also be intimated to him; it shall be subject to such limits as may be specified in this behalf by the Government. It shall be utilized in accordance with the directions of the Government.
- (ii) Deductions for absence from duty.
- (iii) Deductions or damage to or loss of goods entrusted to the employee for custody or for less than money for which he is required to account where such damage or loss is directly attributable to his neglect or default. The employed persons shall be explained personally and also in writing the damage or loss, in respect of which the deduction is proposed to be made and given an opportunity to offer any explanations in the presence of another person. The amount of the said deduction shall also be intimated to him. It shall be subject to such limits as may be specified in this behalf by the Government.
- (iv) Deductions for house accommodation supplied by the employer or by the Government or any authority constituted by the Government for providing housing accommodation.
- (v) Deductions for such amenities and services supplied by the employer as the State Government may by general or special order authorizes. These will not include the supply of tools and protective required for the purposes of employment.
- (vi) Deductions for such recovery of advance or for adjustment of over payment of wages, such advances shall not exceed an amount equal to wages for two calendar months of the employed persons and the monthly instalment of deductions shall not exceed one fourth of the wages earned in that month.
- (vii) Deductions of income tax payable by the employed persons.
- (viii) Deduction required to be made by order of a court or other competent authority.
- (ix) Deductions for subscriptions to and for repayment of advances from any provident fund.
- (x) Deductions for payment to co-operative societies or deduction for recovery of loans advance by an employer from out of a fund maintained for the purpose by the employer and approved in this behalf by the Government, or deductions made with the written authorisation of the person employed, for payments of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Act, 1956 (31 of 1956);
- (xi) Deduction for recovery or adjustment of amount other than wages, paid to the employed person in error or in excess of what is due to him;
- (xii) Deduction made with the written authorisation of the employed person (which may be given once generally and not necessarily every time a deduction is made) for the purchase of securities of the Government of India or of the Government or for being deposited in any Post Office Savings Bank in furtherance of any Savings Scheme of any such Government.

Every employer shall send annually a return in Form III showing the deduction from wages so as to reach the Inspector not later than the 1st February following the end of the year to which it relates:

Provided that prior approval of the Inspector or any other officer authorised by the Government in this behalf is obtained in writing before making the deductions, unless the employee gives his consent in writing to such deduction.

VI. MAINTENANCE OF REGISTER AND RECORDS

Every employer shall maintain at the workshop a register of wages in the form prescribed specifying the following particulars for each period in respect of each employed person:

- (a) The minimum rates of wages payable,
- (b) The number of days in which overtime was worked,

- (c) The gross wages,
- (d) All deductions made from wages,
- (e) The wages actually paid and the date of payment.

Every employer shall issue wages slips in form XII containing prescribed particulars to every person employed.

Every employer shall get the signature or the thumb impression of every person employed on the wage-book and wage slip.

Entries in the wage books and wage slips shall be properly authenticated by the employer or his agent.

A muster roll, register of fines, register of deductions for damage or loss and register of overtime shall be maintained by every employer at the workshop in form prescribed.

Every employer shall keep exhibited at main entrance to the establishment and its office, notices in English and in languages understood by a majority of the workers of the following particulars in a clean and legible form:

- (a) Minimum rates of wages.
- (b) Extracts from the Acts and Rules made thereunder.
- (c) Name and address of the Inspector.

Register of wages, Muster Roll, register of fines, register of deductions for damage or loss and register of overtime shall be preserved for a period of three years after the date of last entry made therein.

All registers and records required to be maintained by an employer under the rules shall be produced on demand before the Inspector provided that where an establishment has been closed the Inspector may demand the productions of the registers and records in his office or such other place as may be nearer to the employers.

VII. INSPECTORS

An Inspector can enter in any premises and can exercise power of inspection (including examination of documents and taking evidence) as may deem necessary for carrying out the purpose of the Act.

VIII. CLAIMS AND COMPLAINTS

Where an employee is paid less than the minimum rates of wages fixed for his class of work of less than the amount due to him under the provisions of this Act, he can make an application in the prescribed form within six months to the authority appointed for the purpose. An application delayed beyond this period may be admitted if the authority is satisfied that the applicant had sufficient cause for not making the application within such period.

Any legal practitioner, official of a registered Union, Inspector under the Act or other person acting with the permission, the Authority can make the complaint on behalf of an employed person.

A single application may be presented by or on behalf of or in respect of a group of employed persons whose wages have been delayed, if they are borne on the same establishment and their claim relates to the same wage period or periods.

A complaint under section 22(a) relating to payment of less than minimum rates of wages to less than the amount due to an employee under the provisions of the Act can be made to the Court only after an application in respect of the facts constituting the offence has been presented under section 20 and has been granted wholly or in part, and Government or an officer authorised by it in this behalf sanctioned the making of the complaints;

A complaint under section 22(b) or 22(a) regarding contravention of the provisions relating to hours of work and weekly day of rest or other miscellaneous offences relating to maintenance of registers, submission of returns, etc., can be made to the Court by or with the sanction of an Inspector. The time limit for making such complaints is one month from the date of grant of sanction by the Inspector, in the case of the offences falling under Section 22(b) and six months of the date on which the offence is alleged to have been committed, in the case of offences falling under Section 22(a)".

IX. ACTION BY AUTHORITY

The Authority may direct the payment of the amount by which the minimum wages payable exceeds the amount actually paid together with the payment of compensation not exceeding ten times the amount of such excess. The Authority may direct payment of compensation in cases where the excess is paid before the disposal of the application.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Every direction of the Authority shall be final.

X. PENALTIES FOR THE OFFENCE UNDER THE ACT

An employer who pays to an employee less than the amount due to him under the provisions of the Act or infringes any order or rules in respect of normal working day, weekly holiday, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend the five hundred rupees, or with both.

Any employer who contravenes any provision of the Act or any rule made there under shall if no other penalty is provided for such contravention by the Act, be punishable with the fine which may extend to five hundred rupees. If the person

committing any offence under the Act is a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. No such person will be liable to punishment, if he proves that the offences was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Any director, manager, secretary or other officer of the company with whose or connivance an offence has been committed is liable to be proceeded against and punished under the Act.

Note:

- (a) "Company" means any body corporate and includes firms or other association of individuals.
- (b) "director" in relation to a firm means a partner in the firm.