

THE MINIMUM WAGES ACT, 1948

1. Short title and extent.—(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to ¹[the whole of India] ²[***].

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

¹[(a) “adolescent” means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) “adult” means a person who has completed his eighteenth year of age;]

(b) “appropriate Government” means—

(i) in relation to any scheduled employment carried on by or under the authority of the ²[Central Government or a railway administration], or in relation to a mine, oil-field or major port, or any corporation established by ³[a Central Act], the Central Government, and

(ii) in relation to any other scheduled employment, the ⁴[State Government];

⁵[(bb) “child” means a person who has not completed his fourteenth year of age;]

(c) “competent authority” means the authority appointed by the appropriate Government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) “cost of living index number” in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employees in such employment;

(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 ⁶[clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;

(ii) in any scheduled 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 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 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;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "scheduled employment" means an employment specified in the Schedule, or any process or branch of work forming part of such employment;
- (h) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment 7[and includes house rent allowance], but does not include—
 - (i) the value of
 - (a) any house accommodation, supply of light, water, medical attendance, or
 - (b) any other amenity or any service excluded by general or special order of the appropriate Government;
 - (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
 - (iii) any travelling allowance or the value of any travelling concession;
 - (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
 - (v) any gratuity payable on discharge;
- (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 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 8[Union].

STATE AMENDMENTS

Madhya Pradesh.—(1) In section 2, in clause (e), for the words, brackets and figures "and includes, except in sub-section (3) of section 26", substitute the words, brackets and figures "and includes a person deemed to be employer under section 22CC and further includes, except in sub-section (3) of section 26".

[Vide Madhya Pradesh Act 11 of 1959, sec. 2 (w.e.f. 1-6-1959) and Madhya Pradesh Act 23 of 1961, sec. 21 (b) (w.e.f. 23-6-1961)].

(2) In section 2, in clause (i) shall be re-numbered as clause (ee) and to that clause following *Explanation* shall be added:—

"Explanation.—An employee who has been dismissed, discharged or retrenched from employment or whose employment has been otherwise terminated shall, in respect of all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clauses (b), (c) of sub-section (1) of section 13 or wages at the overtime rate under section 14 during the period of his employment, be deemed to be an employee for the purpose of this Act."

[Vide Madhya Pradesh Act 23 of 1961, sec. 2 (w.e.f. 23-6-1961)].

Maharashtra.—In section 2, in clause (i) for the words “and management of that other person”, substitute the words “and management of that other person; and includes for the purposes of sections 20, 21, 22A, 22B, 22C and 22D any person who has been an employee and who has ceased to be so by reason of superannuation, retirement, dismissal, removal, discharge, termination of his service, or otherwise howsoever.”

[Vide Maharashtra Act 3 of 1963, sec. 2 (w.e.f. 14-1-1963)].

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

- ²[(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 part thereof;]

- (b) review at such intervals, as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

³[Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.]

(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, ⁴[***] 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 ⁵[as soon as may be after such finding].]

(2) The appropriate Government may fix—

- (a) a minimum rate of wages for time work (hereinafter referred to as ‘a minimum time rate’);
- (b) a minimum rate of wages for piece work (hereinafter referred to as ‘a minimum piece rate’);
- (c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as ‘a guaranteed time rate’);
- (d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as ‘overtime rate’).

⁶[(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 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 revised shall not apply 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.]

(3) In fixing or revising minimum rates of wages under this section,—

(a) different minimum rates of wages may be fixed for—

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

7[(b) minimum rates of wages may be fixed by any one or more of the following wage-periods, namely:—

(i) by the hour,

(ii) by the day,

(iii) by the month, or

(iv) by such other larger wage-period as may be prescribed,

and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated:]

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith.

STATE AMENDMENTS

Bihar.—In section 3, omit sub-section (2A).

[*Vide* Bihar Act 5 of 1983, sec. 2 (w.e.f. 30-1-1983)].

Gujarat.—In section 3, in sub-section (1A), add the following proviso namely:—

“Provided that, where the State Government had for any reason not fixed the minimum rates of wages in respect of any scheduled employment within one year from the date on which it came to a finding as aforesaid in respect of such employment, nothing contained in this sub-section shall, after the commencement of the Minimum Wages (Gujarat Amendment) Act, 1961, prevent the State Government from fixing the minimum rates of wages in respect of such employment even after the expiry of the said period of one year.”

[*Vide* Gujarat Act 22 of 1961, sec. 2 (w.e.f. 18-5-1961)].

Kerala.—In its application to the fixation of minimum rates of wages in respect of employments specified in Part I and Part II of the Schedule to the Act in relation to which the appropriate Government is the State Government, shall have effect in the State of Kerala subject to the amendments specified below. In section 3, in sub-section (1), in the opening words, for the words “The appropriate Government”, substitute the words “The State Government”.

[*Vide* Kerala Act 18 of 1960, sec. 2 (w.e.f. 2-9-1960)].

Madhya Pradesh.—(1) In section 3, in sub-section (1), insert the following proviso, namely:—

“Provided that where for any reason the State Government has not fixed the minimum rates of wages in respect of any scheduled employment within the period specified in this sub-section, the State Government may, by notification, extend from time to time, the said period by a further period not exceeding one year in the aggregate:

Provided further that the State Government may, instead of fixing minimum rates of wages under this sub-section for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment or category or categories of employees in such employment in the whole State or part thereof."

(2) After sub-section (1A), add the following sub-section, namely:—

"(1B) Notwithstanding anything contained in sub-section (1), the State Government may, at the time of review under clause (b) of that sub-section—

- (a) split up the class or classes of such employment or category or categories of employees in such employment or amalgamate the class or classes of such employment or category or categories of employees in such employment and revise the minimum rates of wages fixed in respect thereof under sub-section (1);
- (b) fix the minimum rates of wages for the class or classes of such employment or category or categories of employees in such employment as were not in existence at the time of fixing the minimum rates under sub-section (1) or were in existence but were not covered by such fixation;
- (c) fix the minimum rates of wages, mentioned under clause (a) or clause (b) for the whole State or for any such part thereof for which they were not fixed under sub-section (1) or extend the minimum rates fixed under sub-section (1) for any part of the State, to the whole State or any other part thereof."

(3) In section 3, in sub-section (3), in clause (a), in sub-clause (iii), after the word "adults" insert the words and brackets "(males and females)".

[Vide Madhya Pradesh Act 23 of 1961, sec. 3 (w.e.f. 23-6-1961)].

Maharashtra.—(1) In section 3, in sub-section (1A), add the following proviso, namely:—

"Provided that, where the State Government has not for any reason fixed the minimum rates of wages in respect of any scheduled employment within one year from the date on which it came to a finding as aforesaid in respect of such employment, nothing contained in this sub-section shall, after the commencement of the Minimum Wages (Maharashtra Amendment) Act, 1960, prevent the State Government from fixing the minimum rates of wages in respect of such employment even after the expiry of the said period of one year."

[Vide Maharashtra Act 10 of 1961, sec. 2 (w.e.f. 15-2-1961)].

(2) In section 3, in sub-section (1) in clause (a), for the proviso, substitute the following proviso, namely:—

"Provided that the State Government may, instead of fixing the 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 of the State or any part thereof and in the case of an employment under any local authority, or class of local authorities."

[Vide Maharashtra Act 3 of 1963, sec. 3 (w.e.f. 14-1-1963)].

4. Minimum rate of wages.—(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the 'cost of living allowance'); or
- (ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or
- (iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the

competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

STATE AMENDMENT

Madhya Pradesh.—Section 11 renumbered as section 4A.

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 21 (w.e.f. 23-6-1961)].

1[5. Procedure for fixing and revising minimum wages.]—(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either—

- (a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
- (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.]

STATE AMENDMENTS

Assam.—In section 5, in sub-section (1), in clause (a) add at the end the following proviso, after adding a colon after the word “be” and deleting the comma and the word “or” namely:—

“Provided the committees and sub-committees as so appointed may advise the appropriate Government in respect of fixation of wages on interim measure after holding such preliminary enquiries as the necessary committee or the sub-committee, as the case may be, considers in this behalf and the appropriate Government after considering such advice may fix the wages pending the fixation of the minimum rate of wages as required under sub-section (2), or.”

[*Vide* Assam Act 19 of 1964, sec. 2 (w.e.f. 11-8-1964)].

Madhya Pradesh.—The M.P. Minimum Wages Fixation Act, 1962 (16 of 1962) is an Act to fix the minimum wages in certain scheduled employments and to provide for certain other matters connected therewith. Section 3 of this Act says that notwithstanding anything contained in section 5 of the principal Act of 1948 as applicable to State of Madhya Pradesh or any other provision contained therein in that behalf or any judgment, decree or order of any Court to the contrary, the State can fix minimum rates of wages in respect of employment in items 2, 3, 5, 6, 7, 8 and 11 of Part I as well as in respect of employments in Part II of the Schedule. Rates fixed in respect of the said employments shall be enforceable with effect from 1st January, 1959.

Section 4 of that Madhya Pradesh Act (16 of 1962) states that the States shall also have power to revise the rates fixed, from time to time.

6. Advisory committees and sub-committees.—[*Rep. by the Minimum Wages (Amendment) Act, 1957 (30 of 1957), sec. 5 (w.e.f. 17-9-1957).*]

7. Advisory Board.—For the purpose of co-ordinating the work of 1[committees and sub-committees appointed under section 5] and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board.

8. Central Advisory Board.—(1) For the purpose of advising the Central and 1[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 Board, 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 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.

9. Composition of committees, etc.—Each of the committees, sub-committees 1[***] 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.

STATE AMENDMENTS

Madhya Pradesh.—In section 9,—

- (1) after the words, “and independent persons”, insert the words, “including officers of Government”,
- (2) for the words, “such independent persons” substitute the words, “such independent persons, or such officers of Government”, and
- (3) add at the end the following proviso and the *explanation*, namely:—
“Provided that the number of officers of Government shall not exceed two.”

Explanation.—In this section—

- (i) “a person representing employer” shall mean—
 - (a) an employer; or
 - (b) an officer of an association of employers ; or
 - (c) “an officer of a federation of association of employers to which the association referred to in clause (b) is affiliated;
- (ii) “a person representing employees” shall mean—
 - (a) an employee; or
 - (b) an officer of a trade union functioning in the scheduled employment; or
 - (c) an officer of federation of trade unions in the State to which trade union referred to in clause (b) is affiliated.”

After section 9, insert the following section namely:—

“9A. *Finality of orders consisting Board, Committee, sub-committee, etc.*—No order of the State Government nominating any person as the Chairman or a member of the Advisory Board or a committee or sub-committee shall be called in question in any manner and no act or proceeding before any Board, Committee or sub-committee shall be called in question in any manner in any Court of law on the ground merely of the existence of any vacancy in or of any defect or irregularity in the constitution of such Board, committee or sub-committee.”

[Vide Madhya Pradesh Act 23 of 1961, sec. 5 (w.e.f. 23-6-1961).]

Rajasthan.—To section 9 add the following *explanation* with retrospective effect:—

“Explanation.—For the purposes of this section, an officer of the State Government shall be deemed to be ‘independent’ notwithstanding that the State Government is an employer in any scheduled employment.”

[*Vide Rajasthan Act 4 of 1969, sec. 3 (w.e.f. 4-4-1969)*].

After section 9, insert the following new section, namely:—

“9A. Finality of order constituting Board, Committee, sub-committee, etc.—No order of the State Government nominating any person as the Chairman or a Member of the Advisory Board or a Committee or Sub-Committee shall be called in question in any manner and no action or proceedings before any Board, Committee or Sub-Committee shall be called in question in any manner in any court of law on the ground merely of the existence of any vacancy in or of any defect or irregularity in the constitution of such Board, Committee or Sub-Committee.”

[*Vide Rajasthan Act 4 of 1969, sec. 3 (w.e.f. 4-4-1969)*]

Tamil Nadu.—After section 9, insert the following section, namely:—

“9A. Saving—No order of the State Government nominating any person as the Chairman or a Member of the Advisory Board or a Committee or Sub-Committee shall be called in question in any manner and no action or proceedings before any Board, Committee or Sub-Committee shall be called in question in any manner in any court of law on the ground merely of the existence of any vacancy in or of any defect or irregularity in the constitution of such Board, Committee or Sub-Committee.”

[*Vide Tamil Nadu Act 47 of 1981, sec. 2 (w.e.f. 1-10-1981)*].

1[10. Correction of errors.]—(1) The appropriate Government may, at any time, by notification in the Official Gazette, correct clerical or arithmetical mistakes in any order fixing or revising minimum rates of wages under this Act, or errors arising therein from any accidental slip or omission.

(2) Every such notification shall, as soon as may be after it is issued, be placed before the Advisory Board for information.]

11. Wages in kind.—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concessional rates, the appropriate Government may, by notification in the Official Gazette, authorise the provision of such supplies at concessional rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concessional rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

STATE AMENDMENT

Madhya Pradesh.—Section 11 renumbered as section 4A.

[*Vide Madhya Pradesh Act 23 of 1961, sec. 21 (w.e.f. 23-6-1961)*].

12. Payment of minimum rates of wages.—(1) Where in respect of any scheduled employment a notification under section 5 ¹[***] 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).

STATE AMENDMENT

Bihar.—In section 12, after sub-section (1), insert the following sub-section, namely:—

“(1A) Where immediately before the issue of a notification under section 5 fixing or revising the minimum rates of wages in respect of any scheduled employment, wages at a rate higher than the rate so fixed or revised, were payable either by contract or agreement, or under any other law for the time being in force, then, notwithstanding anything contained in this Act, wages at such higher rate shall be payable to the employees in such scheduled employment and the wages so payable shall be deemed to be minimum wages for the purposes of this Act.”

[Vide Bihar Act 5 of 1983, sec. 3 (w.e.f. 30-1-1983)].

Madhya Pradesh.—(1) In section 12, after sub-section (1), insert the following sub-section, namely:—

“(1A) Where immediately before the issue of a notification under section 5 fixing or revising the minimum rates of wages in respect of any scheduled employment, wages at a rate higher than the rate so fixed or revised, were payable under this Act, or under any law or award or agreement or customs or usage for the time being in force, then, notwithstanding anything contained in this Act, wages at such higher rate shall be payable to the employees in such scheduled and the wages so payable shall be deemed to be the minimum wages for the purposes of this Act.”

[Vide Madhya Pradesh Act 23 of 1961, sec. 6 (w.e.f. 23-6-1961)].

(2) Provisions of this section shall apply to minimum rates of wages specified in section 3.

[Vide Madhya Pradesh Act 16 of 1962, sec. 4 (w.e.f. 5-8-1962)].

13. Fixing hours for normal working day, etc.—¹[(1)] In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

- (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

²[(2)] The provisions of sub-section (1) shall, in relation to the following classes of employees, apply only to such extent and subject to such conditions as may be prescribed:—

- (a) employees engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
- (c) employees whose employment is essentially intermittent;
- (d) employees engaged in any work which for technical reasons has to be completed before the duty is over;
- (e) employees engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

(3) For the purposes of clause (c) of sub-section (2), employment of an employee is essentially intermittent when it is declared to be so by the appropriate Government on the ground that the daily hours of duty of the employee, or if there be no daily hours of duty as such for the employee, the hours of duty, normally include periods of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.]

STATE AMENDMENT

Maharashtra.—In section 13, in sub-section (1), after clause (a), insert the following clause, namely:—

“(aa) fix the number of hours of work which shall constitute a normal working week”; and

(2) In section 13, in sub-section (3), after the words “the appropriate Government”, insert the words “or by an officer not below the rank of a Deputy Commissioner of Labour especially authorized by the State Government in this behalf.”

[Vide Maharashtra Act 3 of 1963, sec. 4 (w.e.f. 14-1-1963)].

14. Overtime.—(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of 1[section 59 of the Factories Act, 1948 (63 of 1948)] in any case where those provisions are applicable.

STATE AMENDMENT

Madhya Pradesh.—In section 14, after sub-section (1), add the following sub-section namely:—

“(1A) The State Government may, by notification fix the limit for overtime work in any scheduled employment subject to such conditions and restrictions as may be specified in the notification.”

[Vide Madhya Pradesh Act 23 of 1961, sec. 7 (w.e.f. 23-6-1961)].

15. Wages of worker who works for less than normal working day.—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period of less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

- (i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and
- (ii) in such other cases and circumstances as may be prescribed.

16. Wages for two or more classes of work.—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 of 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.

STATE AMENDMENT

Madhya Pradesh.—In section 16, for the words “in respect of the time respectively occupied in each class of work, wages at not less than the minimum rate in respect of each such class” substitute the words “wages at the highest of the rates prescribed for such class.”

[Vide Madhya Pradesh Act 23 of 1961, sec. 8 (w.e.f. 23-6-1961)].

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

18. Maintenance of registers and records.—(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 outworkers, 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.

STATE AMENDMENTS

Bihar.—In section 18, after sub-section (3), add the following sub-section, namely:—

“(4) The appropriate Government may, by rules made under this Act, also provide for the issue of identity cards and services certificate to employees employed in any scheduled employment in such form and containing such particulars as may be prescribed.”

[Vide Bihar Act 9 of 1988, sec. 2 (w.e.f. 19-2-1988)].

Madhya Pradesh.—(1) In section 18, after sub-section (3), add the following sub-section namely:—

“(4) Every employer shall in such scheduled employments as the State Government may, by notification, specify in this behalf, display a notice of period of work including overtime in respect of all of his employees in such manner as may be prescribed”.

[Vide Madhya Pradesh Act 23 of 1961, sec. 9 (w.e.f. 23-6-1961)].

(2) After section 18, insert the following section, namely:—

“18A. *Chief Inspector.*—The State Government may, by notification, appoint any person to be the Chief Inspector who shall exercise such powers and perform such duties throughout the State as may be prescribed”.

[Vide Madhya Pradesh Act 23 of 1961, sec. 10 (w.e.f. 14-1-1963)].

Note.—Section 18A as inserted by Madhya Pradesh Act 11 of 1959 is now numbered as section 22CC by Madhya Pradesh Act 23 of 1961, sec. 21 (b) (w.e.f. 23-6-1961).

Maharashtra.—In section 18, in sub-section (3), after the words “wage slips”, at both the places where they occur, the words “and attendance-cards” shall be inserted.

[Vide Maharashtra Act 3 of 1963, sec. 5 (w.e.f. 14-1-1963)].

Uttar Pradesh.—This section does not apply to local authorities in Uttar Pradesh [See Uttar Pradesh Gazette, dated 3rd December, 1966, Pt. I, p. 6252].

This Section does not apply to employees employed in certain employments in Uttar Pradesh.

[Vide Uttar Pradesh Government Gazette, Extraordinary, dated 17th August, 1983, Pt. (Kha), p. 2].

19. Inspectors.—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

- (a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the ¹[Government] or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;
- (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;
- (c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;
- ²[(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer; and]
- (e) exercise such other powers as may be prescribed.

(3) Every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

³[(4) Any person required to produce any document or thing or to give any information by an Inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).]

STATE AMENDMENTS

Bihar.—(1) In section 19, in sub-section (2), after clause (d), insert the following clauses, namely:—

“(dd) take or accept statement of the guardian of such employees who, because of certain physical or mental disabilities (deaf, dumb, etc.) cannot give a statement about payment of wages 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 provision of the Act;

(ddd) conduct any application presented under sub-section (2) of section 20 of the Act before any authority appointed under sub-section (1) of section 20 of that Act.”

[Vide Bihar Act 5 of 1983, sec. 4 (w.e.f. 30-1-1983)].

Madhya Pradesh.—(1) In section 19, in sub-section (1), for the words “and define the local limits within which they shall exercise their functions”, substitute the words “specify the areas within which they shall exercise their respective jurisdiction”.

(2) In sub-section (2),—

- (a) for the words “local limits for which he is appointed”, substitute the words “areas of his jurisdiction”;
- (b) in clause (a), after the words, “other public authority”, insert the words, “or such person representing the employers or such person representing the employees” ; and

(3) after clause (e), insert the following *Explanation*, namely:—

*"Explanation.—*For the purpose of clause (a) the expressions "a person representing employer" and "a person representing employees" shall have the meaning assigned to those expressions in section 9."

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 11 (w.e.f. 23-6-1961)].

20. Claims.—(1) The appropriate Government may, by notification in the Official Gazette, appoint ¹[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 to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages ²[or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 or of wages at the overtime rate under section 14], to employees employed or paid in that area.

(2) ³[Where an employee has any claim of the nature referred to in sub-section (1)], the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages ⁴[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 he had sufficient cause for not making the application within such period.

⁵[(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer, or give them an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may without prejudice to any other penalty to which the employer may be liable under this Act, direct—

- (i) in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such excess;
- (ii) in any other case, 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,

and the Authority may direct payment of such compensation in cases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.]

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

- (a) if the authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or
- (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.

(6) Every direction of the Authority under this section shall be final.

(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 1898).

STATE AMENDMENTS

Bihar.—In section 20,—

(1)(a) in sub-section (1), for the words “or any officer of the State Government not below the rank of Labour Commissioner”, substitute the words “or one such officer of the State Government not below the rank of an Assistant Commissioner of Labour”

(b) in sub-section (3), after the words “the Authority shall hear the applicant and the employer” and before the word “or”, insert “summarily”; and

(c) for sub-section (5), substitute the following sub-section, namely:—

“(5) Any amount directed to be paid under this section shall be recoverable as an arrear of land revenue.”;

(d) for sub-section (6) substitute the following sub-section, namely:—

“(6) Any employer or worker aggrieved by any direction made under sub-section (3) by an authority appointed under sub-section (1), on an application made under sub-section (2), may, within 30 days from the date of the direction, prefer an appeal in such manner and to such Authority as the State Government may by notification specify in this behalf, and that Authority may, after hearing the appeal, confirm, modify or reverse the direction appealed against and no further appeal shall lie against the order made by such Authority in any Court of law.”; and

(e) after sub-section (6), so inserted, insert the following new sub-section, namely:—

“(6A) The Authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from performing the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of 30 days but not thereafter.”

[Vide Bihar Act 5 of 1983, sec. 5 (w.e.f. 30-1-1983)].

In section 20—

(i) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) No employer shall, during the pendency of any proceedings arising out of any claim case, take any action against any employee concerned in such claim case—

(a) by altering to the prejudice of such employee, the conditions of service applicable to him immediately before the commencement of such proceedings; and

(b) by discharging, terminating the services in any manner of punishing whether by dismissal or otherwise of such workers, save with the express permission in writing of the Authority before whom the proceeding is pending.”

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) At the time of hearing, the authority may direct the employers to deposit at least 50% of the claimed amount with the Authority excluding the amount of compensation. The said amount may be paid to the claimant which shall be adjusted subsequently with the decreed amount.”

[Vide Bihar Act 9 of 1988, sec. 3 (19-2-1988)].

Madhya Pradesh.—(1) In section 20, for sub-section (1), substitute the following sub-section, namely:—

“(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 of 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 Civil Court or as a stipendiary Magistrate or any Revenue Officer not below the rank of Naib Tahsildar, to be the authority to hear and decide for any specified area all claims arising out of payment of less than minimum rates or wages or in respect of the payment of remuneration for

days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of section 13 of wages at the overtime rate under section 14, to employees employed or paid in that area."

[Vide Madhya Pradesh Act 36 of 1976, (w.e.f. 16-7-1976)].

(2) In sub-section (2), in the proviso, for the words "six months", at both the places they occur, substitute the words "one year"; and

(3) To sub-section (4), insert following proviso, namely:—

"Provided that nothing in this sub-section shall apply to any application filed by an Inspector under sub-section (2)."

[Vide Madhya Pradesh Act 23 of 1961, sec. 12 (w.e.f. 23-6-1961)].

Maharashtra.—(1) In section 20, in sub-section (1), after the words "payment of less than the minimum rates of wages", insert the words, brackets, figures "or in respect of wages not paid within the time prescribed under sub-section (1) of section 12."

[Vide Maharashtra Act 3 of 1963, sec. 6 (w.e.f. 14-1-1963)].

(2) In sub-section (1), for the word "Magistrate" substitute the words "Judicial Magistrate."

[Vide Bombay Act 8 of 1954, sec. 2 and Schedule (w.e.f. 10-2-1954)].

In section 20, to sub-section (1) add the following proviso namely:—

"Provided that the State Government may, by notification in the Official Gazette, appoint any Block Development Officer, Tahsildar, Additional Tahsildar or Naib Tahsildar to be the Authority to hear and decide for any area specified in the Notification all such claims of employees employed or paid in employment in agriculture in the area so specified.

Explanation.—For the purposes of this proviso, the expression "Block Development Officer" has the meaning assigned to it in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Maharashtra Act 5 of 1962)]."

[Vide Maharashtra Act 25 of 1976, sec. 2 (w.e.f. 1-2-1977)].

Karnataka.—In section 20, in sub-section (1), for the words "stipendiary Magistrate", substitute the words "Judicial Magistrate."

[Vide Mysore Act 13 of 1965, sec. 66 and Schedule (w.e.f. 1-10-1965)].

Rajasthan.—In section 20, in sub-section (1), after the expression "Labour Commissioner", the expression "or a Vikas Adhikari appointed under the Rajasthan Panchayat Samities and Zilla Parishads Act, 1959 (Rajasthan Act 37 of 1959)" shall be inserted.

[Vide Rajasthan Act 11 of 1976, sec. 3].

21. Single application in respect of a number of employees.—(1) 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 ²[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.

STATE AMENDMENTS

Gujarat.—After section 21, insert the following section, namely:—

"21A. *Liability for payment of court fee.*—(1) In any proceedings under section 10, the applicant shall not be liable to pay any court-fees (other than fees payable for service of process) in respect of such proceedings:

Provided that, when the application is presented by an Inspector, he shall not be liable to pay the process fees also.

(2) Where the applicant succeeds in such proceedings, the authority hearing the application shall calculate the amount of court fees which would have been payable by the applicant but for sub-section (1), and direct the employer or other person responsible for the payment of wages under section 12 to pay the amount to the State Government. The amount shall, without prejudice to any other mode of recovery; be recoverable as an arrear of land revenue."

[Vide Gujarat Act 23 of 1961, sec. 3 (w.e.f. 18-5-1961)].

Maharashtra.—Same as in Gujarat.

[Vide Maharashtra Act 10 of 1961, sec. 3 (w.e.f. 15-2-1961)].

1[22. Penalties for certain offences.—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 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.]

STATE AMENDMENT

Bihar.—In section 22, for the words "six months", substitute the words "one year" and for the words "five hundred rupees", substitute the words "three thousand rupees".

[Vide Bihar Act 5 of 1983, sec. 6 (w.e.f. 30-1-1983)].

Maharashtra.—In section 22, in clause (a), after the words "provisions of this Act", add the words "or fails to pay the wages within the time prescribed under sub-section (1) of section 12".

[Vide Maharashtra Act 3 of 1963, sec. 7 (w.e.f. 14-1-1963)].

After section 22, add the following new section, namely:—

"22A. *Penalty for obstructing Inspector.*—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers, records or other documents in his custody kept in pursuance of this Act, and which he is required to produce by or under this Act shall, on conviction, be punished with fine which may extend to five hundred rupees."

[Vide Maharashtra Act 3 of 1963, sec. 8 (w.e.f. 14-1-1963)].

1[22A. General provision for punishment of other offences.—Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided for such contravention by this Act, be punishable with fine which may extend to five hundred rupees.]

STATE AMENDMENT

Bihar.—For section 22A, substitute the following section, namely:—

"22A. *General Provision for punishment of other offences.*—Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided in this Act for such contravention, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

[Vide Bihar Act 5 of 1983, sec. 7 (w.e.f. 30-1-1983)].

¹[**22B. Cognizance of offences.**—(1) No court shall take cognizance of a complaint against any person for an offence—

- (a) under clause (a) of section 22 unless an application in respect of the facts constituting such offence has been presented under section 20 and has been granted wholly or in part, and the appropriate Government or an officer authorised by it in this behalf has sanctioned the making of the complaint;
 - (b) under clause (b) of section 22 or under section 22A, except on a complaint made by, or with the sanction of, an Inspector.
- (2) No court shall take cognizance of an offence—
- (a) under clause (a) or clause (b) of section 22, unless complaint thereof is made within one month of the grant of sanction under this section;
 - (b) under section 22A, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

STATE AMENDMENTS

Bihar.—In section 22B, in sub-section (1), for clause (c), substitute the following clause, namely:—

“(a) under clause (a) of section 22 unless the State Government or an officer authorised by it in this behalf has sanctioned the making of the complaint.”

[*Vide Bihar Act 5 of 1983, sec. 8 (w.e.f. 3-1-1983)*].

In section 22B, in sub-section (1), in clause (b), insert the following proviso, namely:—

“Provided that the Court, if it is satisfied that the State Government or any officer authorised by it in this behalf was prevented by sufficient cause from sanctioning the making of the complaint within the period specified in sub-section (2) shall condone the delay and allow the complaint to be made even after the expiry of the said period.”

[*Vide Bihar Act 9 of 1988, sec. 4 (19-2-1988)*].

Gujarat.—In section 22B, in sub-section (2), for clause (b), substitute the following clause, namely:—

“(b) under section 22A, unless the complaint thereof is made within six months of the date on which the offence becomes known to the Inspector.”

[*Vide Gujarat Act 22 of 1961, sec. 4 (w.e.f. 18-5-1961)*].

Madhya Pradesh.—In section 22B,—

- (1) in sub-section (1), in clause (a), for the words and figures “unless an application in respect of the facts constituting such offence has been presented under section 20”, substitute the words and figures “unless a claim under section 20 has been preferred before the authority” and
- (2) in sub-section (2), in clause (a), for the words “one month”, substitute the words “three months.”

[*Vide Madhya Pradesh Act 23 of 1961, sec. 13 (w.e.f. 26-6-1961)*].

Maharashtra.—Same as in Gujarat.

[*Vide Maharashtra Act 10 of 1961, sec. 4 (w.e.f. 13-2-1961)*].

¹[**22C. Offences by companies.**—(1) If the person committing any offence under this Act is a company, every person who at the time the offence was committed, was incharge 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:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director” in relation to a firm means a partner in the firm.]

STATE AMENDMENTS

Madhya Pradesh.—After section 22C, add the following section, namely:—

“22CC. *Liability of principals in certain cases.*—(1) Subject to the provisions of sub-section (2), where in any scheduled employment in respect of which minimum rate of wages have been fixed under this Act, any person (hereinafter in this section referred to as principal) contracts with any other person (hereinafter in this section referred to as contractor) for having any goods made for sale for the purposes of the trade or the principal either wholly or partly out of materials supplied to the contractor by the principal, then notwithstanding that the employees for making such goods are employed by the contractor, the principal shall also in addition to the contractor be for all purposes of this Act to be the employer in relation to the employees:

Provided that where by virtue of the provision of sub-section (1), a principal is convicted of an offence punishable under section 22, he shall be punishable only with fine as provided for in that section.

(2) The provisions of this section shall apply only to such scheduled employments as the State Government may, by notification, specify in this behalf.”

[Vide Madhya Pradesh Act 11 of 1959, sec. 2 (w.e.f. 12-6-1959) as amended by Madhya Pradesh Act 23 of 1961, sec. 21(b) (w.e.f. 23-6-1961)].

Manipur.—After section 22C, insert the following section, namely:—

“22CC. *Compounding of offences.*—An officer specially empowered by the State Government in this behalf by notification in the Official Gazette may, subject to any general or special order of the State Government in this behalf, compound any offence punishable under this Act with fine only committed for the first time either before or after the institution of the prosecution on realization of such amount of composition fee as he thinks fit, not exceeding the maximum amount of fine fixed for the offence, and where the offence is so compounded—

- (i) before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;
- (ii) after the institution of the prosecution, the composition shall amount to acquittal of the offender.”

[Vide Manipur Act 5 of 1993, sec. 2].

Uttar Pradesh.—After section 22C, insert the following section, namely:—

“22CC. *Compounding of offences.*—An officer specially empowered by the State Government in this behalf by notification may, subject to any general or special order of the State Government in this behalf, compound any offence punishable under this Act with fine only committed for the first time, either before or after the institution of the prosecution, on realisation of such amount of composition fee as he thinks fit, not exceeding the maximum amount of fine fixed for the offence; and where the offence is so compounded—

- (i) before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;
- (ii) after the institution of the prosecution, the composition shall amount to acquittal of the offender.”

[Vide Uttar Pradesh Act 35 of 1979, sec. 5 (w.e.f. 21-12-1979)].

¹[22D. Payment of undisbursed amounts due to employees.]—All amounts payable by an employer to an employee as the amount of minimum wages of the employee under this Act or otherwise due to the employee under this Act or any rule or order made thereunder shall, if such amounts could not or cannot be paid to the employee on account of his death before payment or on account of his whereabouts not being known, be deposited with the prescribed authority who shall deal with the money so deposited in such manner as may be prescribed.]

STATE AMENDMENT

Madhya Pradesh.—Section 22D re-numbered as section 23.

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 21(c) (w.e.f. 23-6-1961)].

¹[22E. Protection against attachment of assets of employer with Government.]—Any amount deposited with the appropriate Government by an employer to secure the due performance of a contract with that Government and any other amount due to such employer from that Government in respect of such contract shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employer other than any debt or liability incurred by the employer towards any employee employed in connection with the contract aforesaid.]

23. Exemption of employer from liability in certain cases.—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

- (a) that he has used due diligence to enforce the execution of this Act; and
- (b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged:

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

STATE AMENDMENT

Madhya Pradesh.—Section 23 re-numbered as section 22D.

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 21(c) (w.e.f. 23-6-1961)].

24. Bar of suits.—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

- (a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff; or
- (b) has formed the subject of a direction under that section in favour of the plaintiff; or
- (c) has been adjudged in any proceeding under that section not to be due to the plaintiff; or
- (d) could have been recovered by an application under that section.

25. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

26. Exemptions and exceptions.—(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 ¹[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.

²[(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 ³[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 ³[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 dependant 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.

STATE AMENDMENTS

Madhya Pradesh.—In section 26, after sub-section (2A), add the following sub-section namely:—

“(2AA) Where the State Government is of the opinion that it is necessary or expedient in the public interest so to do, it may by notification and subject to such condition, if any, as may be specified therein, direct that all or any of the provisions of this Act shall not apply in relation to all or any class of employers in any scheduled employment.”

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 16 (w.e.f. 23-6-1961)].

Maharashtra.—In section 26, in sub-section (2A), insert the following proviso, namely:—

“Provided that the powers of the State Government under this sub-section may, subject to the control of State Government, be exercised by Commissioner of Labour.”

[*Vide* Maharashtra Act 3 of 1963, sec. 9 (w.e.f. 14-1-1963)].

27. Power of State Government to add to Schedule.—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 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 ¹[State] be deemed to be amended accordingly.

STATE AMENDMENTS

Bihar.—After section 27, insert the following sections, namely:—

"27A. *Protection to persons acting under the Act.*—No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything which, is in good faith done or intended to be done in due discharge of his duties under this Act.

27B. *Transfer of cases from one Court to another.*—The State Government or any Authority subordinate to it, if so authorised by the State Government by an order in writing in this behalf, may, by notification in the Official Gazette, withdraw or recall any case pending at any time before any Authority appointed under sub-section (1) of section 20 of the Act and transfer the same to another appointed Authority for disposal in the prescribed manner."

[Vide Bihar Act 5 of 1983, sec. 9 (w.e.f. 30-1-1983)].

Madhya Pradesh.—For section 27, substitute the following section namely:—

"27. The State Government, after giving by notification not less than three months' notice of its intention so to do, may, by like notification—

- (a) add to either Part of the Schedule, any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act;
- (b) modify or rescind any entry in either Part of the Schedule;

and thereupon the Schedule shall in its application to the State be deemed to be amended accordingly".

[Vide Madhya Pradesh Act 23 of 1961, sec. 17 (w.e.f. 23-6-1961)].

After section 27, add the following sections, namely:—

"27A. *Protection to persons acting under the Act.*—No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

27B. *Delegation of power.*—(1) The State Government may, by order, direct that any powers, other than the power exercisable by it under sections 27 and 30, shall in such circumstances and in such manner, if any, as may be specified in the direction, be exercised by any officer not below the rank of Assistant Commissioner of Labour or authority subordinate to it.

(2) Nothing in the Act shall derogate from the right of the State Government to exercise any power delegated to any officer or authority subordinate to it."

[Vide Madhya Pradesh Act 23 of 1961, sec. 18 (w.e.f. 23-6-1961)].

28. Power of the Central Government to give directions.—The Central Government may give directions to a ¹[State Government] as to the carrying into execution of this Act in the ²[State].

29. Power of the Central Government to make rules.—The Central Government may, subject to the conditions of previous publication, by notification in the Official Gazette, make rules prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

30. Power of appropriate Government to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may,—

- (a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, ¹[***] and the Advisory Board;

- (b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees ¹***] and the Advisory Board;
- (c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concessional rates;
- (d) prescribe the time and conditions of payment of, and the deductions permissible from wages;
- (e) provide for giving adequate publicity to the minimum rates of wages fixed under this Act;
- (f) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day;
- (g) prescribe the number of hours of work which shall constitute a normal working day;
- (h) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;
- (i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records;
- (j) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;
- (k) prescribe the powers of Inspectors for purposes of this Act;
- (l) regulate the scale of costs that may be allowed in proceedings under section 20;
- (m) prescribe the amount of court-fees payable in respect of proceedings under section 20; and
- (n) provide for any other matter which is to be or may be prescribed.

STATE AMENDMENTS

Madhya Pradesh.—After section 30, add the following section, namely:—

“30A. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything, not inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purposes of removing the difficulties.”

[*Vide* Madhya Pradesh Act 23 of 1961, sec. 19 (w.e.f. 23-6-1961)].

Maharashtra.—In section 30,—

- (1) in clause (g), for the words “a normal working day”, substitute the words “a normal working day or week”.
- (2) in clause (j), for the words “wage slips”, at both places where they occur, substitute the words “or wage slips and attendance cards”.

[*Vide* Maharashtra Act 3 of 1963, sec. 10 (w.e.f. 14-1-1963)].

¹**[30A. Rules made by the Central Government to be laid before Parliament.—**
²[(1)] Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both

Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule].

³[(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

¹[**31. Validation of fixation of certain minimum rates of wages.**—Where during the period—

- (a) commencing on the 1st day of April, 1952, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1954 (26 of 1954); or
- (b) commencing on the 31st day of December, 1954, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1957 (30 of 1957); or
- (c) commencing on the 31st day of December, 1959, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1961 (31 of 1961),

minimum rates of wages have been fixed by an appropriate Government as being payable to employees employed in any employment specified in the Schedule in the belief or purported belief that such rates were being fixed under clause (a) of sub-section (1) of section 3, as in force immediately before the commencement of the Minimum Wages (Amendment) Act, 1954 (26 of 1954) or the Minimum Wages (Amendment) Act, 1957 (30 of 1957), or the Minimum Wages (Amendment) Act, 1961 (31 of 1961) as the case may be, such rates shall be deemed to have been fixed in accordance with law and shall not be called in question in any court on the ground merely that the relevant date specified for the purpose in that clause had expired at the time the rates were fixed:

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during any period specified in this section of an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or rule issued under section 13.]

STATE AMENDMENTS

Madhya Pradesh.—After section 31, add the following section, namely:—

"31A. *Validation of certain minimum rates of wages.*—(1) The rates of minimum wages fixed or revised in respect of employment Nos. 2, 3, 5, 6, 7, 8 and 11 in Part I of the Schedule to the principal Act, under the Government of Madhya Pradesh, Labour Department Notification Nos. 306 to 309—XVI-58, dated the 30th December, 1958, shall be and shall always be deemed to have been validly fixed or revised and shall be deemed to have come into force on the date mentioned in the said notifications, notwithstanding any judicial decision to the contrary or any defect or irregularity in the constitution of the Advisory Board under section 7 of the principal Act read with section 9 thereof or publication of the notifications in the Gazette or non-compliance with any other requirement of law and shall not be called in question in any court merely on the ground that there was failure to comply with provisions of the principal Act.

(2) The rate of minimum wages fixed or revised in respect of employment specified in Part II of the Schedule to the principal Act under the Government of Madhya Pradesh, Labour Department Notification No. 7758-XVI, dated 31st December, 1959, shall be and shall always be deemed to have been validly fixed or revised, notwithstanding any defect or irregularity in the constitution of the Committee under section 5(1)(a), of the principal Act, read with section 9 thereof, or publication of the notification in the Gazette or non-compliance with any other requirement of law and shall not be called in question in any court merely on the ground that there was failure to comply with the provisions of the principal Act:

Provided that nothing contained in this section shall extend or be construed to extend to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during the period between the dates on which the aforesaid notifications come into force and the date on which this Act comes into force an amount which is less than the minimum rates of wages immediately prevailing before the said notification or by reason of non-compliance during the period aforesaid with any order or rule issued under section 13 of the principal Act”.

[Vide Madhya Pradesh Act 23 of 1961, sec. 20 (w.e.f. 23-6-1961)].

Rajasthan.—After section 31, add the following section, namely:—

“31A. *Validation of certain minimum rates of wages.*—The rate of minimum wages fixed or revised before the commencement of the Minimum Wages (Rajasthan Amendment and Validation Ordinance, 1968, in respect of employment Nos. 1, 2, 3, 5, 6, 7, 8, 10, 11, 13, 14, 16, 17, in Part I of the Schedule to the Act and employment in Part II of the Schedule to the Act shall be and shall be deemed to always have been validly fixed or revised as the case may be, and shall be deemed to have come into force on the date such fixation or revision has been brought into force by the State Government by a notification in the Official Gazette, notwithstanding any judicial decision to the contrary or any defect or irregularity in the constitution of the Committee or the sub-committee, or the Advisory Board under section 5 or section 7 of the Act read with section 9 thereof or publication of the notification in the Official Gazette or non-compliance with any requirement of law and shall not be called in question in any court merely on the ground that there was a failure to comply with the provisions of the Act.”

[Vide Rajasthan Act 4 of 1969, sec. 4 (w.e.f. 4-4-1969)].