

MEPL CLASSES

THE CODE ON WAGES, 2019

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**Question 1. (June 25)**

Elaborate the provisions relating to the fines under Section 19 of The Code on Wages, 2019 Act.

Answer –

Section 19 of The Code on Wages, 2019 Act talks about fines. It lays down the following:

1. No fine shall be imposed on any employee save in respect of those acts and omissions on his part as the employer, with the previous approval of the appropriate Government or of such authority as may be prescribed, may have specified by notice under sub-section (2).
2. A notice specifying such acts and omissions shall be exhibited in such manner as may be prescribed, on the premises in which the employment is carried on.
3. No fine shall be imposed on any employee until such employee has been given an opportunity of showing cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.
4. The total amount of fine which may be imposed in any one wage-period on any employee shall not exceed an amount equal to three per cent. of the wages payable to him in respect of that wage-period.
5. No fine shall be imposed on any employee who is under the age of fifteen years.
6. No fine imposed on any employee shall be recovered from him by instalments or after the expiry of ninety days from the day on which it was imposed.
7. Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.
8. All fines and all realisations thereof shall be recorded in a register to be kept in such manner and form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the establishment as are approved by the prescribed authority.

### Question 2. (Dec 24)

Demonstrate claims made under The Code on Wages, 2019 and procedure thereof.

Answer –

Section 45 of the Code on Wages 2019 deals with claims under Code and procedure thereof –

1. The appropriate Government may, by notification, appoint one or more authorities, not below the rank of a Gazetted Officer, to hear and determine the claims which arise under the provisions of this Code.
2. The authority appointed under sub-section (1), while deciding the claim under that sub-section, may order, having regard to the circumstances under which the claim arises, the payment of compensation in addition to the claim determined, which may extend to ten times of the claim determined and endeavour shall be made by the authority to decide the claim within a period of three months.
3. If an employer fails to pay the claim determined and compensation ordered to be paid under sub-section (2), the authority shall issue a certificate of recovery to the Collector or District Magistrate of the district where the establishment is located who shall recover the same as arrears of land revenue and remit the same to the authority for payment to the concerned employee.
4. Any application before the authority for claim referred to in sub-section (1) may be filed by:
  - a) the employee concerned; or
  - b) any Trade Union registered under the Trade Unions Act, 1926 of which the employee is a member; or
  - c) the Inspector-cum-Facilitator.
5. Subject to such rules as may be made, a single application may be filed under this section on behalf or in respect of any number of employees employed in an establishment.
6. The application under sub-section (4) may be filed within a period of three years from the date on which claims referred to in sub-section (1) arises: Provided that the authority referred to in sub-section (1) may, entertain the application after three years on sufficient cause being shown by the applicant for such delay.

7. The authority appointed under sub-section (1) and the appellate authority appointed under sub-section (1) of section 49, shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority or appellate authority shall be deemed to be a civil court for all the purposes of section 195 of the Act and Chapter XXVI of the Code of Criminal Procedure, 1973.



**Question 3. (Dec 23)**

Demonstrate the time limits for payment of wages under the Code on Wages, 2019.

Answer –

Time limit for payment of wages (Section -17)

1. The employer shall pay or cause to be paid wages to the employees, engaged on:

- a) daily basis, at the end of the shift;
- b) weekly basis, on the last working day of the week, that is to say, before the weekly holiday;
- c) fortnightly basis, before the end of the second day after the end of the fortnight;
- d) monthly basis, before the expiry of the seventh day of the succeeding month.

2. Where an employee has been:

- a) removed or dismissed from service; or
- b) retrenched or has resigned from service, or became unemployed due to closure of the establishment, the wages payable to him shall be paid within two working days of his removal, dismissal, retrenchment or, as the case may be, his resignation.

3. Notwithstanding anything contained in sub-section (1) or sub-section (2), the appropriate Government may, provide any other time limit for payment of wages where it considers reasonable having regard to the circumstances under which the wages are to be paid.

4. Nothing contained in sub-section (1) or sub-section (2) shall affect any time limit for payment of wages provided in any other law for the time being in force.

**Question 4. (June 23)**

Elaborate the procedure for fixing and revising minimum wages under the Code on Wages, 2019.

Answer –

Section 8 of the Code lays down provision relating to procedure for fixing and revising minimum wages. It contemplates the following:

1. In fixing minimum rates of wages for the first time or in revising minimum rates of wages under this Code, the appropriate Government shall either:

a) appoint as many committees as it considers necessary to hold enquiries and recommend in respect of such fixation or revision, as the case may be; or

b) by notification 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 shall be taken into consideration.

2. Every committee appointed by the appropriate Government under clause (a) of subsection (1) shall consist of persons:

a) representing employers;

b) representing employees which shall be equal in number of the members specified in clause (a); and

independent persons, not exceeding one-third of the total members of the committee

3. After considering the recommendation of the committee appointed under clause (a) of subsection (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 fix, or as the case may be, revise the minimum rates of wages 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 in the manner specified in clause (b) of sub-section (1), it shall also consult concerned Advisory Board constituted under section 42.

4. The appropriate Government shall review or revise minimum rates of wages ordinarily at an interval not exceeding five years.

**Question 5. (June 25 – MTP)**

Inspect the provisions of the Code regarding the appointment of Inspector cum- Facilitators and explain their powers.

Answer –

Section 51 specifically talks about the appointment of Inspector-cum-Facilitators and their powers. It lays down that:

- The appropriate Government may, by notification, appoint Inspector-cum- Facilitators for the purposes of this Code who shall exercise the powers conferred on them under sub-section (4) throughout the State or such geographical limits assigned in relation to one or more establishments situated in such State or geographical limits or in one or more establishments, irrespective of geographical limits, assigned to him by the appropriate Government, as the case may be.
- The appropriate Government may, by notification, lay down an inspection scheme which may also provide for generation of a web-based inspection and calling of information relating to the inspection under this Code electronically.
- Without prejudice to the provisions of sub-section (2), the appropriate Government may, by notification, confer such jurisdiction of randomised selection of inspection for the purposes of this Code to the Inspector-cum-Facilitator as may be specified in such notification.
- Every Inspector-cum-Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.
- The Inspector-cum-Facilitator may:
  - a) advice to employers and workers relating to compliance with the provisions of this code;
  - b) inspect the establishments as assigned to him by the appropriate Government, subject to the instruction or guidelines issued by the appropriate Government from time to time.
- Subject to the provisions of sub-section (4), the Inspector-cum-Facilitator may,:
  - c) examine any person who is found in any premises of the establishment, whom the Inspector-cum Facilitator has reasonable cause to believe, is a worker of the establishment;
  - d) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;
  - e) search, seize or take copies of such register, record of wages or notices or portions thereof as the Inspector-cum-Facilitator may consider relevant in respect of an offence under this Code and which the Inspector-cum-Facilitator has reason to believe has been committed by the employer;
  - d) bring to the notice of the appropriate Government defects or abuses not covered by any law for the time being in force; and.
  - e) exercise such other powers as may be prescribed.

- Any person required to produce any document or to give any information required by an Inspector-cum Facilitator under sub-section (5) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.
- The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure under sub-section (5) as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

The present code talks about provisions relating to offences and their corresponding penalties. The Code specifies penalties for offences committed by an employer, such as:

a) paying less than the due wages, or b) for contravening any provision of the Code.

Penalties vary depending on the nature of offence, with the maximum penalty being imprisonment for three months along with a fine of up to one lakh rupees.



**Question 6. (Dec 24 – MTP)**

Analyse the deductions, which are might be made from wages as per section 18 of the Code of Wages Act ,2019.

**Answer –**

**Notwithstanding anything contained in any other law for the time being in force, there shall be no deductions from the wages of the employee, except those as are authorized under this Code. For the purposes of this sub-section,**

- 1. any payment made by an employee to the employer or his agent shall be deemed to be a deduction from his wages;**
- 2. any loss of wages to an employee, for a good and sufficient cause, resulting from:**
  - i) the withholding of increment or promotion, including the stoppage of an increment; or**
  - ii) the reduction to a lower post or time-scale; or**
  - iii) the suspension, shall not be deemed to be a deduction from wages in a case where the provisions made by the employer for such purposes are satisfying the requirements specified in the notification issued by the appropriate Government in this behalf.**

**Deductions from the wages of an employee shall be made in accordance with the provisions of this Code, and may be made only for the following purposes, namely: -**

- a) fines imposed on him;**
- b) deductions for his absence from duty;**
- c) deductions for damage to or loss of goods expressly entrusted to the employee for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;**
- d) deductions for house-accommodation supplied by the employer or by appropriate Government or any housing board set up under any law for the time being in force, whether the Government or such board is the employer or not, or any other authority engaged in the business of subsidizing house- accommodation which may be specified in this behalf by the appropriate Government by notification;**
- e) deductions for such amenities and services supplied by the employer as the appropriate Government or any officer specified by it in this behalf may, by general or special order, authorize and such deduction shall not exceed an amount equivalent to the value of such amenities and services.**
- f) deductions for recovery of:**

- i) advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of overpayment of wages;**
  - ii) loans made from any fund constituted for the welfare of labour, as may be prescribed by the appropriate Government, and the interest due in respect thereof;**
  - g) deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof;**
  - h) deductions of income-tax or any other statutory levy levied by the Central Government or State Government and payable by the employee or deductions required to be made by order of a court or other authority competent to make such order;**
  - i) deductions for subscription to, and for repayment of advances from any social security fund or scheme constituted by law including provident fund or pension fund or health insurance scheme or fund known by any other name;**
  - j) deductions for payment of co-operative society subject to such conditions as the appropriate Government may impose;**
  - k) deductions made, with the written authorization of the employee, for payment of the fees and contribution payable by him for the membership of any Trade Union registered under the Trade Unions Act, 1926;**
  - l) deductions for recovery of losses sustained by the railway administration on account of acceptance by the employee of counterfeit or base coins or mutilated or forged currency notes;**
  - m) deductions for recovery of losses sustained by the railway administration on account of the failure of the employee to invoice, to bill, to collect or to account for the appropriate charges due to the railway administration whether in respect of fares, freight, demurrage, wharfage and crange or in respect of sale of food in catering establishments or in respect of commodities in grain shops or otherwise;**
  - n) Deductions for recovery of losses sustained by the railway administration on account of any rebates or refunds incorrectly granted by the employee where such loss is directly attributable to his neglect or default;**
  - o) Deductions, made with the written authorization of the employee, for contribution to the Prime Minister's National Relief Fund or to such other fund as the Central Government may, by notification, specify.**
  - p) Notwithstanding anything contained in this Code and subject to the provisions of any other law for the time being in force, the total amount of deductions which may be made under sub-section (2) in any wage period from the wages of an employee shall not exceed fifty per cent. of such wages.**
- 3. Where the total deductions authorized under sub-section (2) exceed fifty per cent. of the wages, the excess may be recovered in such manner, as may be prescribed.**

4. Where any deduction is made by the employer from the wages of an employee under this section but not deposited in the account of the trust or Government fund or any other account, as required under the provisions of the law for the time being in force, such employee shall not be held responsible for such default of the employer.

**Question 7. (Dec 24)**

**What are the stipulations regarding the payment of minimum bonus and maximum bonus under the Payment of Bonus Act, 1965 ?**

**Answer –**

**Payment of Minimum Bonus** Section 10 of the Payment of Bonus Act, 1965, states that subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of any accounting year a minimum bonus which shall be 8.33 per cent of the salary or wage earned by the employee during the accounting year or one hundred rupees whichever is higher, whether or not the employer has any allocable surplus in the accounting year: Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this Section shall have effect in relation to such employee as if for the words one hundred rupees the words sixty rupees were substituted. Section 10 of the Act is not violative of Articles 19 and 301 of the Constitution. Even if the employer suffers losses during the accounting year, he is bound to pay minimum bonus as prescribed by Section 10 [State v. Sardar Singh Maiithia (1979) Lab. 1.C].

**Payment of Maximum bonus**

**(1)** Where in respect of any accounting year referred to in Section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that Section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent of such salary or wage.

**(2)** In computing the allocable surplus under this Section, the amount set on or the amount set off under the provisions of Section 15 shall be taken into account in accordance with the provisions of that Section. (Section 11)

**Question 8. (Dec 24)**

Bright Futures Ltd., is imparting education to the students. It has been facing financial difficulties and has delayed salary payments and other dues to its employees for the past three months. Several employees have resigned due to the non-payment of wages, while those remaining are increasingly concerned about their financial stability. The affected employees have approached the company management several times, but no concrete measures have been taken to resolve the issue. Consequently, the employees have decided to take legal action to recover the amounts due to them under the Payment of Wages Act, 1936. Explain the measures to be taken by the employees for recovery of amount due from the employer.

Answer –

Section 15 of the Payment of Wages Act, 1936 provides that the appropriate Government may, by notification in the Official Gazette, appoint –

- (a) any Commissioner for Workmen's Compensation; or
- (b) any officer of the Central Government exercising functions as,— (i) Regional Labour Commissioner; or (ii) Assistant Labour Commissioner with at least two years' experience; or (c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or (d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or (e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate, as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims.

Where contrary to the provisions of Payment of Wages Act, 1936 any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed, may apply to such authority for a direction of payment of wages.

When any application is entertained by the authority, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of

the delayed wages, together with the payment of such compensation as the authority may think fit. Where there is any dispute as to the person or persons being the legal representative or representatives of the employer or of the employed person, the decision of the authority on such dispute shall be final.

Any Amount directed to be paid under section 15 may be recovered— (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and (b) if the authority is not a Magistrate, by the Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate. The above measures may be taken by the employees for recovery of amount due from the employer.



**Question 9. (June 24)**

ABC Ltd. is a medium-sized manufacturing company that produces automotive parts. The company has a workforce of 150 employees, including both production line workers and administrative staff. ABC Ltd. typically awards annual bonuses to its employees based on performance and company profits. Upon conducting internal investigations and reviewing surveillance footage, the management discovered evidence of theft by a few employees at the stores. Citing the relevant provisions of Payment of Bonus Act, 1965, examine the eligibility for bonus to those employees involved in theft.

**Answer –**

**Section 9 of Payment of Bonus Act, 1965 deals with Disqualification for Bonus**

According to Section 9 of the act an employee shall be disqualified from receiving bonus under the Payment of Bonus Act, 1965, if he is dismissed from service for:

- | Fraud, or
- | Riotous or violent behaviour while on the premises of the establishment; or
- | Theft, misappropriation or sabotage of any property of the establishment

This provision is based on the recommendation of Bonus Commission, which stated that: After all, bonus can only be shared by those workers who promote the stability and well-being of the industry, not by those who positively exhibit disruptive tendencies. Bonuses, without a doubt, impose a duty of good behaviour.

In *Gammon India Ltd Vs Niranjan Das*, the Court held that an employee who is dismissed from service for fraud, riotous or aggressive behaviour on the premises of the company, or who is guilty of theft, misappropriation, or sabotage of any establishment's property is disqualified from receiving bonus for the accounting year under section 9 of the Payment of Bonus Act, 1965. A dismissed employee who has been reinstated with back pay has evidently not committed the above crimes and has not been fired. As a result, he is entitled to a bonus.

In view of the above, those employees of ABC Limited, who are guilty of theft are not entitled to payment of bonus.

**Question 10. (June 24)**

Write down the procedure for fixing and revising minimum wages under the Minimum Wages Act, 1948.

Answer –

Section 5 of the Minimum Wages Act, 1948 deals with procedure for fixing and revising minimum wages. In fixing minimum rates of wages in respect of any scheduled employment for the first time or in revising minimum rates of wages, the appropriate Government can follow either of the two methods described below.

**First Method [Section 5(1)(a)]**

This method is known as the 'Committee Method'. The appropriate Government may 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. After considering the advise of the committee or committees, the appropriate Government shall, by notification in the Official Gazette fix or revise the minimum rates of wages. The wage rates shall come into force from such date as may be specified in the notification. If no date is specified, wage rates shall come into force on the expiry of three months from the date of the issue of the notification. Note: It was held in *Edward Mills Co. v. State of Ajmer (1955) A.L.R. SC*, that Committee appointed under Section 5 is only an advisory body and that Government is not bound to accept its recommendations.

**Second Method [Section 5(1)(b)]**

The method is known as the 'Notification Method'. When fixing minimum wages under Section 5(1) (b), the appropriate Government shall 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 2 months from the date of notification, on which the proposals will be taken into consideration. The representations received will be considered by the appropriate Government. It will also consult the Advisory Board constituted under Section 7 and thereafter fix or revise the minimum rates of wages by notification in the Official Gazette. The new wage rates shall come into force from such date as may be specified in the notification. However, if no date is specified, the notification shall come into force on expiry of three months from the date of its issue. Minimum wage rates can be revised with retrospective effect. [1996 II LU 267 Kar.]