

# Standing Committee Report Summary

## The Code on Wages, 2017

- The Standing Committee on Labour (Chairperson: Dr. Kirit Somaiya) submitted its report on the Code on Wages, 2017. The Code seeks to regulate wage and bonus payments in all employments where any trade, business, or manufacture is carried on. It replace four existing laws related to wages: (i) the Payment of Wages Act, 1936, (ii) the Minimum Wages Act, 1948, (iii) the Payment of Bonus Act, 1965, and (iv) the Equal Remuneration Act, 1976. Key observations and recommendations made by the Committee include:
  - **National minimum wage:** The Code provides that a national minimum wage may be set by the central government. The central government may set separate national minimum wages for different states or regions of the country. The Committee recommended that this provision should be modified to state that the central government shall fix the national minimum wage in the manner as may be prescribed.
  - In addition, the Committee stated that state governments must be consulted before that national minimum wage is set by the central government. Therefore, it recommended that before fixing the national minimum wage, the central government should obtain the advice of the Central Advisory Board and the State Advisory Boards. In this context, the Committee recommended that the Central Advisory Board should include five representatives of state governments, to be nominated by the central government.
  - **Factors for fixing minimum wages:** The Code allows the central or state governments to set factors by which minimum wages will be determined. These include skills required, difficulty of work assigned, and geographical location. The Committee recommended that in addition to these factors, experience and length of service should be taken into account.
  - **Revision of minimum wages:** The Code specifies that the central or state governments must revise minimum wages at an interval of five years. The Committee observed that under the Minimum Wages Act, 1948, state governments have flexibility in revising minimum wages, as long as it is not more than five years. In order to maintain flexibility, the Committee recommended that the Code should specify that central or state governments should revise minimum wages, at an interval not exceeding five years.
- **Gender discrimination:** The Equal Remuneration Act, 1976 prohibits discrimination in wage payments as well as recruitment of employees on the basis of gender. While the Code subsumes the Act, it only prohibits gender discrimination in matters related to wages. In this context, the Committee recommended that the Code should include a provision that prohibits employers from gender discrimination in recruitment and conditions of employment.
- **Definition of employee and worker:** The Committee noted that the definitions of ‘worker’ and ‘employee’ under the Code are different. While the definition of employee includes those in managerial or administrative roles, the definition of worker does not include such persons. The Committee noted that this may lead to employers discriminating between workers and employees. The Committee recommended that since minimum wage is a matter of right for every working person, a common and comprehensive definition of employee/worker should be given in the Code. This would allow for better clarity at the implementation level.
- **Non-applicability of bonus:** The Code states that provisions related to payment of bonus will not apply to establishments in which twenty or more persons are employed. The Committee recommended that in the larger interests of workers, the threshold for application of bonus payments should be reduced to cover establishments with ten or more persons.
- **Inspections:** The Code provides for the appointment of a Facilitator to carry out inspections. The Committee stated that use of the term ‘Facilitator’ gave the impression of diluting the enforcement mechanism, and recommended that it be replaced by the term ‘Inspector’ instead.

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