

# The Wages (Central Advisory Board) Rules, 2021

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# The Wages (Central Advisory Board) Rules, 2021<sup>1</sup>

Whereas the draft of certain rules which the Central Government proposes to make, in exercise of the powers conferred by sub-section (1) of Section 67 of the Code on Wages, 2019 (29 of 2019) were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 432(E), dated 7th July, 2020 as required by sub-section (1) of Section 67 of the Code, inviting objections and suggestions from all persons likely to be affected thereby on or before the expiry of a period of forty-five days from the date of publication of the said notification in the Official Gazette;

And whereas, the said draft contains the proposed rules relating to—

- (i) sub-sections (1), (2), (3), (10) and (11) of Section 42 (to the extent they relate to the Central Advisory Board);
- (ii) clauses (s) and (t) of sub-section (2) of Section 67 (to the extent they relate to the Central Advisory Board);
- (iii) Section 69 [to the extent it relates to Sections 7 and 9 (to the extent they relate to the Central Government) and Section 8 of the Minimum Wages Act, 1948 (11 of 1948)];

And whereas, the objections and suggestions received from the persons likely to be affected, before the expiry of the said forty-five days have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by clauses (s) and (t) of sub-section (2) of Section 67 (to the extent they relate to the Central Advisory Board) of the Code on Wages, 2019 (29 of 2019) and in supersession of the Minimum Wages (Central Advisory Board) Rules, 2011, and the provisions of the Minimum Wages (Central) Rules, 1950 in so far as they relate to Sections 7 and 9 (to the extent they relate to the Central Government) and Section 8 of Minimum Wages Act, 1948 (11 of 1948), except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

## CHAPTER I PRELIMINARY

**1. Short title, extent and commencement.**—(1) These rules may be called the Code on Wages (Central Advisory Board) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**—In these rules, unless the context otherwise requires,—

- (a) “Board” means the Central Advisory Board constituted by the Central Government under sub-section (1) of Section 42;
- (b) “Chairperson” means the Chairperson of the Board;
- (c) “Code” means the Code on Wages, 2019 (29 of 2019);
- (d) “member” means a member of the Board;
- (e) “section” means a section of the Code;
- (f) Words and expressions used in these rules and not defined in these rules shall have the meanings respectively assigned to them in the Code.

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1. Ministry of Labour and Employment, Noti. No. G.S.R. 143(E), dated March 1, 2021, published in the Gazette of India, Extra., Part II, Section 3(i), dated 1st March, 2021, pp. 5-9 No. 102.



## CHAPTER II

## CENTRAL ADVISORY BOARD

**A. Procedure of Central Advisory Board  
under sub-section (10) of Section 42**

**3. Constitution of the Board.**—(1) The Board shall consist of the persons to be nominated by the Central Government representing employers and employees as specified in clauses (a) and (b) of sub-section (1) of Section 42 and the independent persons and representatives of the State Governments as specified in clauses (c) and (d) of that sub-section.

(2) The persons representing employers as referred to in clause (a) of sub-section (1) of Section 42 shall be twelve and the persons representing employees referred to in clause (b) of that sub-section shall also be twelve.

(3) The independent persons specified in clause (c) of sub-section (1) of Section 42 to be nominated by the Central Government shall consist of the following, namely:—

- (i) the Chairperson — Minister of State, Independent Charge, Ministry of Labour and Employment, Government of India;
- (ii) Secretary to the Government of India, Ministry of Labour and Employment;
- (iii) two Members of Parliament;
- (iv) four members each of whom, shall be a professional in the field of wages and labour related issues;
- (v) one member who is or has been a presiding officer of an Industrial Tribunal constituted by the Central Government under Section 7-A of the Industrial Disputes Act, 1947 (14 of 1947); and
- (vi) two members, each of whom shall be the Chairperson of such State Advisory Board referred to in sub-section (4) of Section 42, to the extent possible, to be taken in rotation from the States.

(4) five representatives of the State Governments referred to in clause (d) of Section 42 shall each be the Principal Secretary or Secretary or Commissioner of the State Labour Department of such States as the Central Government may determine from time to time on rotation basis.

(5) Joint Secretary in-charge of the Wage Division, in the Ministry of Labour and Employment, Government of India shall be the Member Secretary to the Board.

(6) The Central Government shall, while nominating the members of the Board, take into account that the independent members under sub-rule (3) shall not exceed one-third of the total members of the Board and one-third of the members of the Board shall be women.

**4. Additional functions of the Board.**—In addition to the functions specified in sub-section (3) of Section 42, the Board on reference by the Central Government advise that Government on the issue relating to the fixation of minimum wages in respect of—

- (i) working journalists as defined in clause (f) of Section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955); and
- (ii) sales promotion employees as defined in clause (d) of Section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).

**5. Meeting of the Board.**—The Chairperson may, subject to the provisions of Rule 32, call a meeting of the Board, at any time he thinks fit:

Provided that on requisition in writing from not less than one half of the members, the Chairperson shall call a meeting within thirty days from the date of the receipt of such requisition.

**6. Notice of meetings.**—The Chairperson shall fix the date, time and place of every meeting and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post and electronically at least fifteen days before the date fixed for such meeting:

Provided that in the case of an emergent meeting, at least seven days notice may be given to every member.

**7. Functions of Chairperson.**—The Chairperson shall,—

- (i) preside at the meetings of the Board:

Provided that in the absence of the Chairperson at any meeting, the members shall elect from amongst themselves by a majority of votes, a member who shall preside at such meeting;

- (ii) decide agenda of each meeting of the Board;
- (iii) where in the meeting of the Board, if any issue has to be decided by voting, conduct the voting and count or cause to be counted the secret voting in the meeting.

**8. Quorum.**—No business shall be transacted at any meeting unless at least one-third of the members and at least one representative member each of both the employers and an employee are present:

Provided that, if at any meeting less than one-third of the members are present, the Chairperson may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present:

Provided further that the date, time and place of such adjourned meeting shall be intimated to all the members electronically or by a registered post.

**9. Disposal of business of the Board.**—All business of the Board shall be considered at a meeting of the Board, and shall be decided by a majority of the votes of members present and voting and in the event of an equality of votes, the Chairperson shall have a casting vote:

Provided that the Chairperson may, if he thinks fit, direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members:



Provided further that no decision on any matter under the preceding proviso shall be taken, unless supported by not less than two-thirds majority of the members.

**10. Method of voting.**—Voting in the Board shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairperson so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairperson may decide.

**11. Proceedings of the meetings.**—(1) The proceedings of each meeting of the Board showing, inter alia, the names of the members present thereat shall be forwarded to each member and to the Central Government as soon as possible immediately after the meeting, and in any case, not less than seven days before the next meeting.

(2) The proceedings of each meeting of the Board shall be confirmed with such modification, if any, as may be considered necessary at the next meeting.

**12. Summoning of witnesses and production of documents.**—(1) The Chairperson may summon any person to appear as a witness if required in the course of the discharge of his duty and require any person to produce any document.

(2) Every person who is summoned and appears as a witness before the Board shall be entitled to an allowance for expenses incurred by him in accordance with the scale for the time being in force for payment of such allowance to witnesses appearing before a Civil Court.

#### **B. Terms of office of members of the Board under sub-section (11) of Section 42**

**13. Term of office of members of the Board.**—(1) Subject to the provisions of these rules, the term of office of a member, other than an official member, shall be normally two years commencing from the date of his appointment or nomination, as the case may be, under sub-section (1) of Section 42:

Provided that such a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is appointed or nominated, as the case may be.

(2) A member representing employers or employees or independent persons of the Board nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

(3) The official members of the Board shall hold office till they are replaced by the other official members appointed in their place.

(4) If a member of the Board is unable to attend a meeting of the Board, the Central Government or the body which nominated him may, by notice in writing signed on its behalf and by such member and addressed to the Chairperson of the Board, nominate a substitute in his place to attend that meeting. Such a substitute member shall have all the rights of a member in respect of the meeting.



(5) Notwithstanding anything contained in sub-rules (1), (2), and (3), the members of the Board shall hold office during the pleasure of the Central Government.

**14. Travelling allowance.**—(1) The travelling allowance of an official member of the Board shall be governed by the rules applicable to him for journey performed by him on official duties and shall be paid by the authority paying his salary.

(2) A member nominated under sub-rule (3)(iii) of Rule 3 shall be entitled to such travelling and daily allowances as may be admissible to him as Member of Parliament appointed in Committees and Commissions set up by the Central Government.

(3) A non-official member of the Board shall be entitled to draw travelling and halting allowance for any journey performed by him in connection with his duties as such member of the Board at the rates and subject to the conditions specified in the extant instructions of Department of Expenditure, Ministry of Finance, Government of India.

**15. Officers and Staff.**—The Central Government may provide officers and staff to the Board, as it may think necessary for the functioning of the Board.

**16. Eligibility for re-nomination of the members of the Board.**—An outgoing non-official member shall be eligible for re-nomination for the membership of the Board for not more than total three terms.

**17. Resignation of members of the Board.**—(1) A member of the Board, other than official members, may, by giving notice in writing to the Chairperson, resign his membership.

(2) A resignation shall take effect from the date of communication of its acceptance or on the expiry of thirty days from the date of resignation, whichever is earlier.

(3) When a vacancy occurs or is likely to occur in the membership of the Board, the Central Government shall take steps to fill the vacancy in accordance with the provisions of the Code.

**18. Cessation of membership.**—If a member of the Board, fails to attend three consecutive meetings, without prior intimation to the Chairperson, he shall, cease to be a member thereof.

**19. Disqualification.**—(1) A person shall be disqualified for being nominated as, and for being a member of the Board—

- (i) if he is declared to be of unsound mind by a competent court; or
- (ii) if he is an un-discharged insolvent; or
- (iii) if before or after the commencement of the Code, he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether a disqualification has been incurred under sub-rule (1), the decision of the Central Government thereon shall be final.