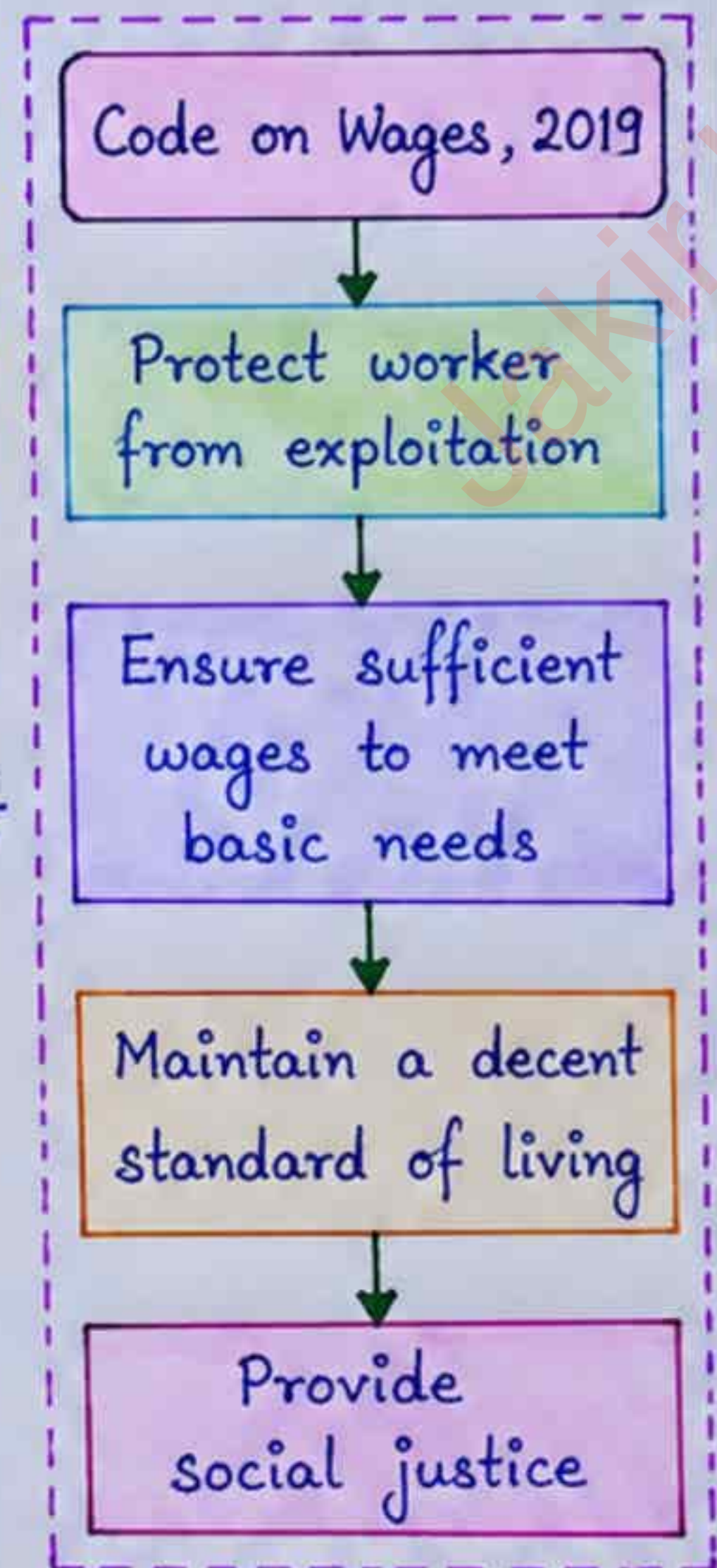


Q1. Define wages, minimum wages and concept of Floor wages of The Code on Wages, 2019. what is the procedure for fixation and revision of minimum rates of wages?

Introduction :-

The Code on Wages, 2019 is one of the most important piece of labour legislation enacted to protect worker from exploitation. It ensure that workers are paid wages sufficient to meet their basic needs and maintain a decent standard of living. This code aim to provide social justice.



meaning of wages (see - 2(y))

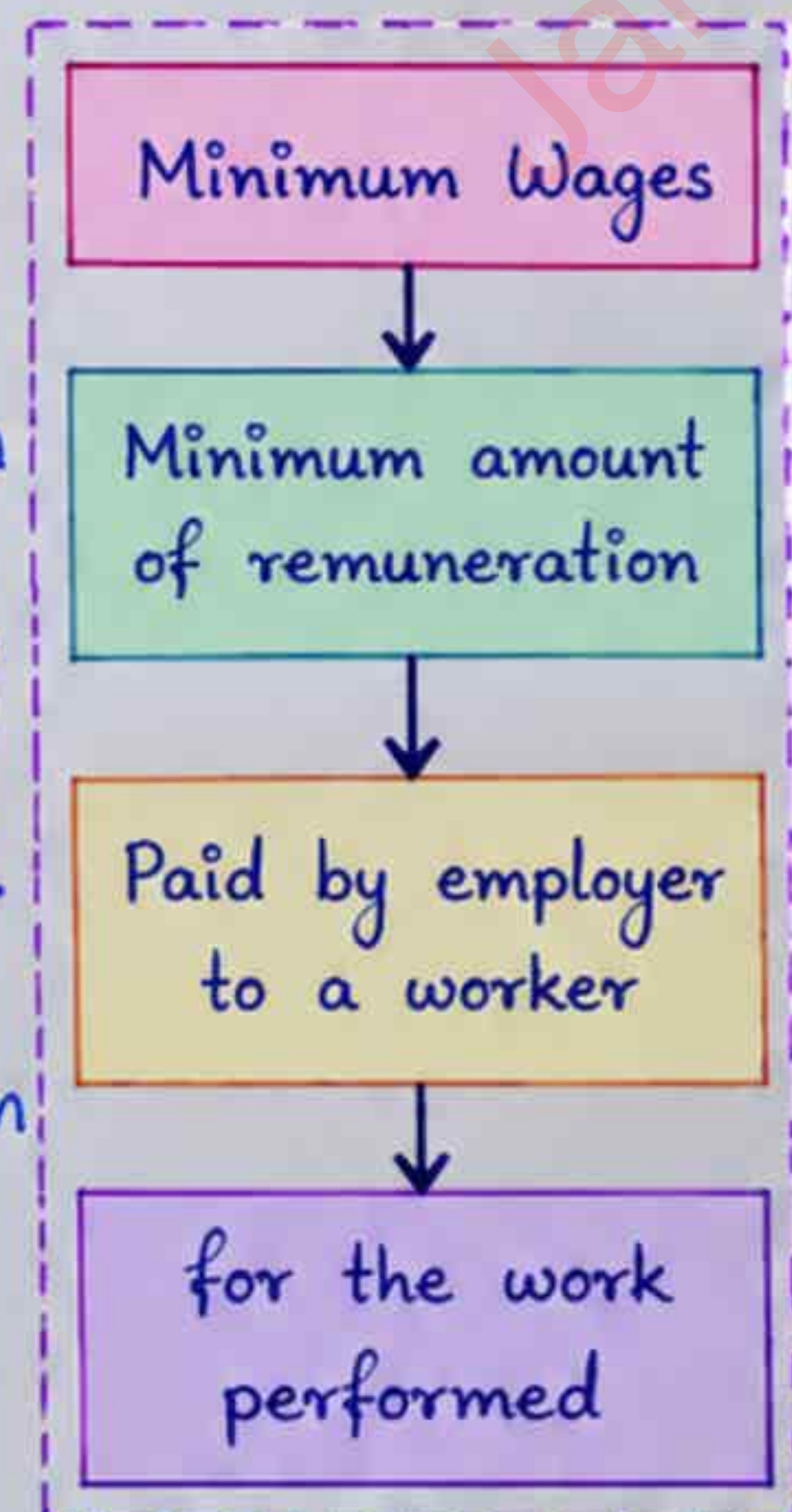
S/ 2(y) wages, means

all remuneration, whether by way of

Salary allowance or whether, express in terms of money or capable of being So express, which would, if the term of employment were fulfilled, be payable to a person employed.

meaning of minimum wages

minimum wage means the minimum amount of remuneration that an employer is required to pay to a worker for the work performed. The appropriate govt fixes minimum minimum rates of wages.



concept of Floor wages (see-9)

The central Govt fixes a floor wages after taking into account the minimum living standard of a worker.

The minimum rates of wages fixed by the appropriate Government cannot be below the floor wage determined by central Government.

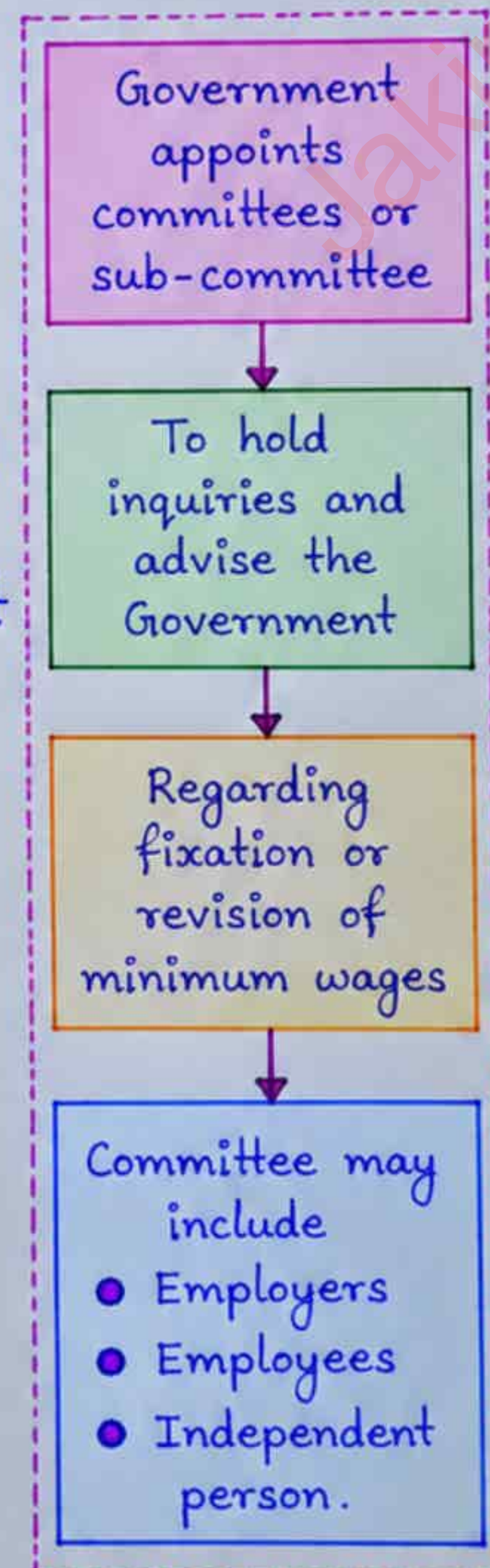
procedure for fixation and revision of minimum wages (Sec-8) :-

(a) A committee method :-

The Government may appoint committees or sub-committee to hold inquiries and advise the Government regarding fixation or revision of minimum wages. The committee may include —

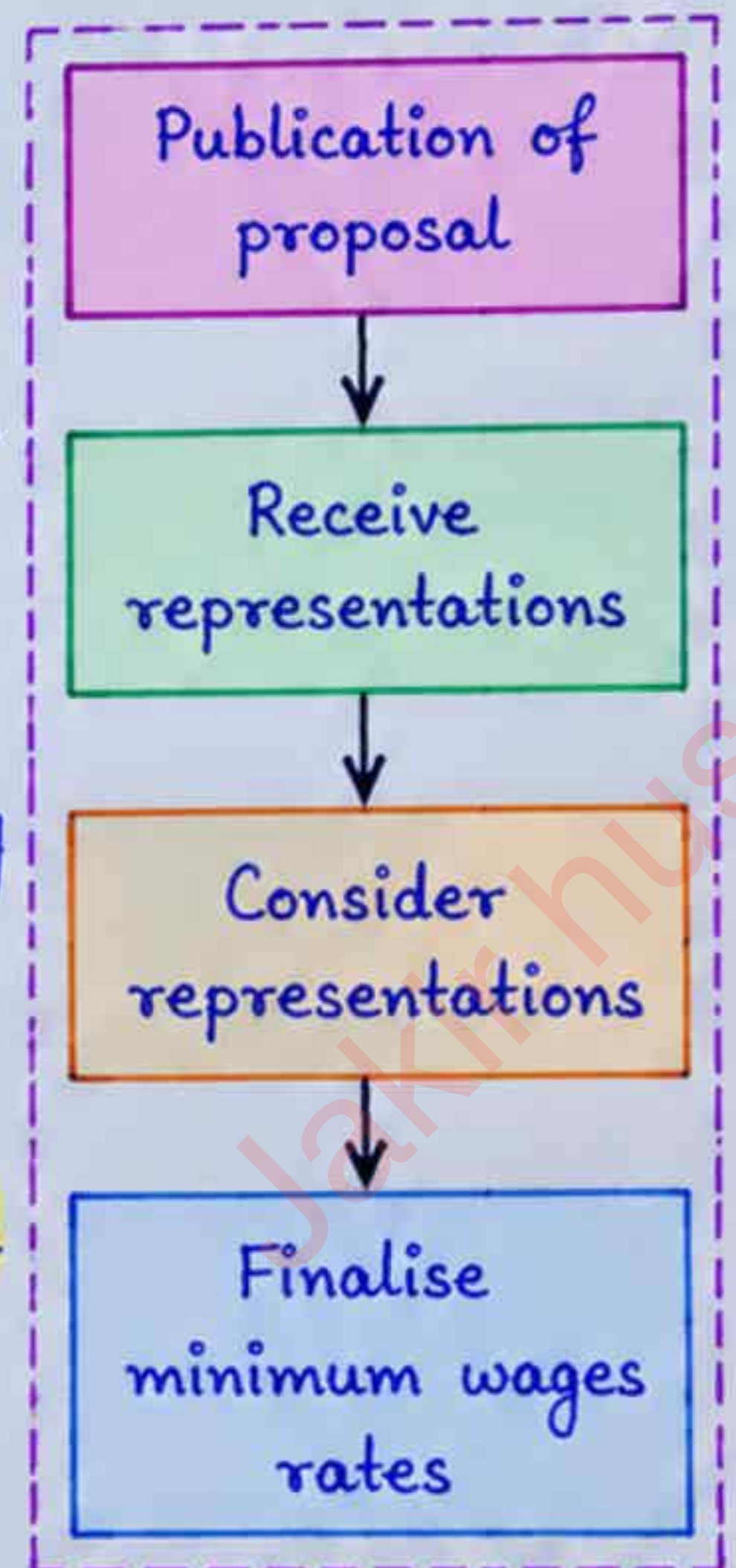
- Employers
- Employees
- Independent person.

The independent person shall not exceed $\frac{1}{3}$ of the total members.



(b) Notification method :-

The Govt may publish proposal for fixing or revising minimum wages for the information of person likely to be affected. After considering representation received within the prescribed period, the Govt may finalise the rates.



(c) Revision of minimum wages :-

The appropriate Govt shall review or revise minimum rate of wages ordinarily at an interval not exceeding five years.

Factors for fixation of minimum wages :-

while fixing or revising minimum wages. The appropriate Govt may take into account —

- Skill required for the work
- Geographical area
- Normal working condition

the Govt may also take into account the minimum standard of living of worker while determining wages.

Landmark case laws

Express Newspaper P(LTD)

VS.

UOI 1958

In this case The Supreme court recognised the importance of statutory wages regulation and observed that

legislation fixation minimum wages is intended to protect worker from exploitation and ensure a reasonable standard of remuneration.

Biray cotton mills LTD
vs
State of Ajmer 1955

in this case S.C held that constitutional validity of minimum wages legislation and recognised that the state can impose minimum wage obligation on employer to protect worker from exploitation.

conclusion :- The cow 2019 creates a common comprehensive framework for regulating wages.

Q2 Explain the provision relating to equal remuneration under the code on wages 2019 ?

Introduction : —

The principle of equal remuneration for equal work is an important aspect of social and economic justice. The code on wages, 2019 incorporate provision to prevent discrimination on the ground of gender in matters relating to wages and employment.

See - 3 and 4 specifically deal with prohibition of discrimination on the ground of gender and determination of disputes regarding the same or similar nature of work.

① Prohibition of Discrimination on Ground of Gender (Sec-3) :-

Section 3 provides that there shall be no discrimination on the ground of gender among employees in matters relating to wages by the same employer where they perform.

➤ Same work

➤ Work of a similar nature

Therefore, an employer cannot pay different wages to employees merely because of their gender.

Protection against Reduction of Wages

An employer cannot reduce the rate of wages of any employee merely for the purpose

of complying with the principle of equal remuneration.

Protection against Reduction of Wages

Prohibition of Discrimination in

Recruitment :—

See - 3

Sec-3 also prohibits discrimination on the ground of sex while recruiting employees for the same work or work of a similar nature.

② Same work of a similar nature

The codes define.

Same work of a similar nature by considering factors such as —

- Skill
- Effort
- Experience

The differences, if any, between the skill, effort, experience and responsibility required for employees of different genders must not be of practical importance in relation to the terms and condition of employment.

③ Decision Regarding Disputes (see-4)

Sometimes a dispute may arise regarding whether two jobs constitute the same work or work of a similar nature. **See-4** provides that such a dispute shall be decided by an authority notified by the appropriate Govt. The authority therefore determines whether the

work performed by the employees satisfies the statutory test of same or similar nature.

— This provision provides a mechanism for resolving disputes and ensure that the principle of equal remuneration can be effectively enforced.

④ Importance of Equal Remuneration

- ▶ prevent gender-based wage discrimination
- ▶ promote equality in employment
- ▶ protect employees from unequal treatment.
- ▶ ensure equal wages for the same or similar work.

Landmark case laws

Mackinnon Mackenzie Co. Ltd.

vs.

Audrey D'Costa 1987

In this case, the Supreme Court dealt with discrimination in remuneration between male and female employees and emphasised that a woman cannot be paid less merely because of their gender.

Conclusion :-

The Code on Wages, 2019 seeks to ensure equality in remuneration by prohibiting discrimination in wages and recruitment.

This code promotes fair wages, gender equality and social justice.

Q.3 Discuss the constitution and function of advisory board and procedure for claim under code on wages 2019 ?

Introduction :-

The Code on Wages, 2019 provides a statutory framework for fixation of minimum wages and protection of employees' wage right. To assist the Government in these matters, the code provides for a Central and State Advisory Board under **Section 42**. It also provides a mechanism for employees to recover their lawful dues through claim under **Section 45**.

① Central Advisory Board - Sec-42

The Central Government shall constitute a Central Advisory Board consisting of —

- ▶ Representatives of employers
- ▶ Representatives of employees
- ▶ An independent person
- ▶ Five representatives of State Governments.

One-third of the members must be women.

An independent person is appointed as the Chairperson.

Function of Central Advisory Board

- ① Fixation and revision of minimum wages and connected matters.
- ② Increase employment opportunities for women.

ii) The extent to which woman may be employed in specified establishment or employment.

The central govt may issue direction to state govt after considering the board advice.

② State Advisory Board (see-42)

Every state government shall constitute a state Advisory board

- ▶ Fixation or revision of minimum wages
- ▶ Increasing employment opportunity for woman.

The state advisory board may constitute committee or sub-committee

③ Claims under the Code - Sec-45

① Appointment of Authority :-

The appropriate Government may appoint one or more authorities not below the rank of a gazetted officer, to hear and determine claims arising under the Code.

② Compensation :-

While deciding a claim, the authority may order payment of compensation in addition to the amount of the claim.

③ Recovery of amount :-

If the employer fails to pay the amount determined and

(c) Compensation ordered by the authority.

The authority may issue a recovery certificate to the Collector or the District Magistrate.

The amount may then be recovered as arrears of land revenue and paid to the concerned employee.

(d) Who can file a claim ?

An application may be filed by —

- (i) The employee concerned
- (ii) A registered trade union
- (iii) The inspector-cum-facilitator.

A single application may also be filed on behalf of or in respect of multiple employees.

(e) Powers of Civil Court :-

The authority deciding claims and the appellate authority have certain powers of a civil court under the Code of Civil Procedure, 1908.

Landmark Case Laws

Biraj Cotton Mill Ltd.
vs
State of Ajmer 1955

In this case, the Court upheld the validity of minimum wage legislation.

Conclusion :-

The Central and State Advisory Boards under Section 42 provide an institutional mechanism for consultation on minimum wages and women employment.

Definition

Appropriate Govt (see - 2(d))

→ AGL means, in relation to an establishment carried on by or under the authority of the Central Government or the establishment of railways, mines, oil field, major port, air transport service.

Contract Labour (see - 2(g))

→ Contract labour means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or connection with such work by or through a contractor.

Inspector - cum - facilitator (see - 2(i))

→ Means a person appointed by

Appropriate Govt under sub-section

1 of the Section 51

Industrial Dispute (Sec-2(g))

→ ID means any dispute or difference between —

- ▶ Employers and employees
- ▶ Employers and workers
- ▶ Workers and workers

any dispute or difference between an individual worker and an employer connected with or arising out of discharge, dismissal or termination of such worker.

Q4 Discuss the provision relating to payment of wages, fines and deduction under the code on wages, 2019 ?

Introduction :—

The code on wages 2019 regulates the payment of wages and protect employees from unlawful deduction and arbitrary fines. chapter III particularly Sec-15 to 24 lay down provision regarding the mode and period of payment of wages, fines and permissible deduction.

① mode of payment of wage (Sec-15)

The wages may be paid —

- > In coins or currency notes
- > By cheque.

- By crediting the wages into the bank account of the employee.
- By electronic mode.

② Fixation of wages period (Sec-16)

The person responsible for payment of wages shall fix the wage period. The wage period may be:

- Daily
- Weekly
- Fortnightly
- Monthly

③ Deduction from wages (Sec-18)

No deduction can be made from the wages of an employee except those authorised by the code.

Permissible deductions include —

- ▶ Fines
- ▶ Absence from duty
- ▶ House accommodation and authorised service
- ▶ Recovery of advances
- ▶ Recovery loans
- ▶ Income tax and other statutory deduction
- ▶ Authorised trade union contribution.

The total deduction in wage period generally cannot exceed 50% of wages where authorised deduction exceed 50%.

The excess may be recovered in the prescribed manner.

④ Fines (Sec - 19)

A fine can be imposed only for acts or omission specified by the employer with the previous approval of the appropriate Government.

⑤ Deduction for absence from duty (Sec - 20)

A deduction may be made when an employee is absent from the place where the employee is required to work. The deduction must be proportionate to the period of absence, where ten or more employees act together and absent themselves without due notice and without reasonable cause.

⑥ Deduction for damage or loss (Sec - 21)

Where damage or loss is caused to the employer because of the negligence or default of the employee, deduction may be made.

⑦ Deduction for service rendered (Sec - 22)

Deduction may be made for house accommodation, amenities or service supplied by the employer only when —

- ▶ The employer has accepted such accommodation, amenity or service.
- ▶ The deduction does not exceed the value of the accommodation, amenity or service supplied.

Important provisions of these provisions

- Ensure regular payment of wages
- Prevent arbitrary deduction
- Restrict excessive fines

Landmark case laws

Bharat Heavy Electrical Ltd.
vs
Mahendra Prasad Takhmola (2019)

In this case, the Supreme Court reiterated that deduction from wages must have a legal basis and cannot be made arbitrarily.

Conclusion :

The Code on Wages, 2019 provides comprehensive safeguards regarding payment of wages (Sections 15 and 16) and regulates the mode of payment and wage period.