

Chapter Ind 72

MINIMUM WAGES FOR ADULT WOMEN AND MINORS

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History: Chapter Ind 72 as it existed on June 30, 1968 was repealed and a new chapter Ind 72 was created effective July 1, 1968.

Ind 72.001 Declaration of policy. (1) The department, in fulfilling its statutory mandate, has caused extensive studies to be made relative to the consideration of a "living wage" and how the wage should be computed. The concept of "cost of living" and "living wage" is very complex because of the many variables. Any single concept is difficult to apply because of different assumptions, techniques and local conditions.

(2) It is the determination of the department that the consumers price index, prepared by the U. S. department of labor, in spite of its limitations, is the best index available for keeping a "living wage rate" reasonably up to date.

(3) The rates adopted in this chapter reflect compensation that has been determined to be adequate to permit any woman or minor employe to maintain herself or himself in reasonable comfort, decency, physical and moral well-being.

(4) It shall be the policy of the department to review the consumer price index in January of each even numbered year and revise the rates for women and minors 18 years of age and over upward or downward by 5 cents for each 4.5 point change in the preceding December index release, using the December 1967 release as a base for the computations. Any rate change adopted as a result of such review shall become effective the following July 1.

(5) The minimum wage rates for minors under 18 years of age shall be computed on the basis of 85% of the minimum wage for adult women and minors 18 years of age and over.

(6) Room allowances shall be computed on the basis of 20% of the prescribed minimum rate, based on a 40 hour week.

(7) Meal allowances shall be computed on the basis of 30% of the prescribed minimum rate, based on a 40 hour week.

(8) All rates computed under subsections (5), (6) and (7) above shall be rounded off to the nearest 5 cents.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.01 Definitions. As used in this chapter:

(1) "Agriculture" will mean the same as "farm premises" as defined in section 102.04 (3), Wis. Stats., of the workmen's compensation act.

(2) A "minor" shall mean any person under 21 years of age.

(3) Pursuant to section 104.01 (1), Wis. Stats., the term "employer" shall include any person, partnership, or corporation engaged in the processing of cucumbers into pickles, who is responsible directly or indirectly for the wages paid for the services of adult women and minor "workers" engaged in the harvesting of cucumbers providing:

1. That the processor or his agent directly or indirectly pays each "worker" performing services in the harvesting of cucumbers or
2. That the processor or his agent has the right (whether exercised or not) to terminate the services of the "worker" or to transfer his services from one grower to another.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.02 Applicability of orders. (1) The rates prescribed in this chapter shall apply to all women and minors employed at private employments including non-profit organizations, whether paid on a time, piece rate, commission, or other basis.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.03 Minimum rates. (1) **MINIMUM RATES.** Except as provided for in sections Ind 72.05 through Ind 72.14, no employer shall employ any adult woman or any minor in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

- (a) Adult women and minors 18 years of age and over: \$1.30
- (b) Minors 17 years of age and under: \$1.10

(2) **TIPS.** Where tips or gratuities are received by the employee from patrons or others, the employer may pay a minimum 85% of the wage rate prescribed in section Ind 72.03 (1) or Ind 72.05 (1), providing he can establish by his records that for each week where credit is taken, when adding the tips received to the wages paid, no less than the minimum rate prescribed in section Ind 72.03 (1) or Ind 72.05 (1) was received by the employee.

(3) **ALLOWANCE FOR BOARD AND LODGING.** Where board and/or lodging are furnished by the employer in accordance with section Ind 72.04, and accepted and received by the employee, an allowance may be made not to exceed the following amounts:

- (a) Lodging—\$10.50 per week or \$1.50 per day
- (b) Meals—\$15.60 per week or \$.75 per meal

(4) **PAYMENT OF WAGES ON OTHER THAN TIME BASIS.** Where payment of wages is made upon a basis or system other than time rate, the actual wage paid per payroll period shall not be less than provided for in this order, but if the piece rates paid for any particular kind of work yield to 65% of the women and minors employed thereon 9 cents per hour more than the minimum hourly rates prescribed in subsection (1), then such piece rates are deemed adequate for such employments and differences between earnings at these rates and prescribed hourly rates do not have to be made up by the employer.

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(5) **HOME WORK.** Wages paid to home workers shall be not less than the rates prescribed in this order.

(6) **DETERMINATION OF COMPLIANCE.** The payroll period shall be taken as the unit of determining compliance with the minimum rates prescribed in this order.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.04 Deductions for meals and lodging. (1) A meal means an adequate well balanced serving of a variety of wholesome and nutritious foods:

(a) Deductions may be made only for bona fide meals consistent with employe's work shift. No deductions shall be made or credit given for meals not eaten except in employments where weekly room and board is provided and accepted.

(b) An employer shall not require that meals be accepted as part payment of wages.

(c) Employer must pay all employes for "on duty" meal periods. Such periods are to be counted as work time. An "on duty" meal period is one where the employer is in violation of the meal period rules and does not provide at least 30 minutes free from work. Any meal period when the employe is not free to leave the premises of the employer will also be considered an "on duty" meal period.

(d) Authorized rest periods or breaks of less than 30 minutes time shall be counted as work time for which there shall be no deduction from wages.

(2) Lodging means living accommodations which are adequate, decent and sanitary, according to usual and customary standards. Employes shall not be required to share a bed.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.05 Hotels, motels, and resorts. (1) **WEEKLY BASIS.** The minimum wage of adult women and minors 18 years of age and over employed full time in hotels, motels, and resorts may be computed on a weekly basis as follows:

(a) Adult women and minors 18 years of age and over:

1. If board and lodging are not furnished ----- \$71.50
2. If board only is furnished ----- \$55.90
3. If board and lodging are furnished ----- \$45.40

(2) **HOURLY BASIS.** (a) *Minimum rates.* The minimum wage of adult women and minors employed in hotels, motels and resorts for less than 55 hours per week shall be computed on an hourly basis as prescribed in section Ind 72.03 (1). ✓

(b) *Allowance for board and lodging.* Where board and/or lodging are furnished by the employer in accordance with section Ind 72.04, and accepted and received by the employe, an allowance may be made not to exceed the following amounts:

1. Lodging—\$10.50 per week or \$1.50 per day
2. Meals—\$15.60 per week or \$.75 per meal

(3) Where an employer has not kept the employment records required by section Ind 72.16 (1) (e), (f) ✓ and (g) ✓, the minimum wage shall be computed on the basis of the weekly rates prescribed in section Ind 72.05 (1) (a). ✓

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.06 Domestic service in private homes. (1) WEEKLY BASIS. The minimum wage of adult women and minors employed in domestic service in private homes for 45 or more hours per week shall be computed on a weekly basis as follows:

- (a) Adult women and minors 18 years of age and over:
1. If board and lodging are not furnished ----- \$58.50
 2. If board only is furnished ----- \$42.90
 3. If board and lodging are furnished ----- \$32.40
- (b) Minors 17 years of age and under:
1. If board and lodging are not furnished ----- \$49.50
 2. If board only is furnished ----- \$33.90
 3. If board and lodging are furnished ----- \$23.40

(2) **HOURLY BASIS. (a) Minimum rates.** The minimum wage of adult women and minors employed in domestic service in private homes for less than 45 hours per week shall be computed on an hourly basis as prescribed in section Ind 72.03 (1).[✓] Employees not living in the home, but who are required to be on duty for more than 45 hours per week shall be paid as a minimum for 45 hours per week.

(b) *Allowance for board and lodging.* Where board and lodging are furnished by the employer in accordance with section Ind 72.04, and accepted and received by the employe, an allowance may be made not to exceed the following amounts:

1. Lodging—\$10.50 per week or \$1.50 per day
2. Meals—\$15.60 per week or \$.75 per meal

(3) **CASUAL EMPLOYMENT IN PRIVATE HOMES.** The minimum rates prescribed by this order shall not apply to casual employment in or around a home in work usual to the home of the employer, and not in connection with or a part of the business, trade, or profession of the employer; such as caring for children, mowing lawns, raking leaves, shoveling snow or other similar odd jobs. For the purpose of this paragraph "casual" employment shall mean employment for not more than 15 hours per week for any one employer.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.07 Agriculture. (1) WEEKLY BASIS. The minimum wage of adult women and minors employed in agriculture for 45 or more hours per week shall be computed on a weekly basis as follows:

- (a) Adult women and minors 18 years of age and over:
1. If board and lodging are not furnished ----- \$58.50
 2. If board only is furnished ----- \$42.90
 3. If board and lodging are furnished ----- \$32.40
- (b) Minors 17 years of age and under:
1. If board and lodging are not furnished ----- \$49.50
 2. If board only is furnished ----- \$33.90
 3. If board and lodging are furnished ----- \$23.40

(2) **HOURLY BASIS. (a) Minimum rates.** The minimum wage of adult women and minors employed in agriculture for less than 45 hours per week shall be computed on an hourly basis as prescribed in section Ind 72.03 (1).[✓] Employees not living on the farm, but who are required to be on duty for more than 45 hours per week shall be paid as a minimum for 45 hours per week.

(b) *Allowance for board and lodging.* Where board and/or lodging are furnished by the employer in accordance with section Ind 72.04, and accepted and received by the employe, an allowance may be made not to exceed the following amounts:

1. Lodging—\$10.50 per week or \$1.50 per day
2. Meals—\$15.60 per week or \$.75 per meal

(3) **SEASONAL NON-RESIDENT AGRICULTURAL WORKERS.** The minimum wage of adult women and minor seasonal agricultural employes who are not residents of Wisconsin and who are employed for less than 6 months in this state shall be computed on an hourly basis as prescribed in section Ind 72.03 (1), or on a piece rate basis if a rate has been established and approved under section Ind 72.07 (4). ✓

(a) Room and board deductions may not be made from the wages of a seasonal non-resident agricultural employe that would result in the employe receiving less than the prescribed minimum rate.

(4) **PAYMENT OF WAGES ON OTHER THAN TIME BASIS IN AGRICULTURAL WORK.** (a) Where the payment of wages is made on a basis or system other than time rate, the actual wage shall not be less than provided for in section 72.03 (4). ✓

(b) The department may also, upon the application of an employer or group of employers covered by this section, approve specific piece rates for any particular kind of employment on the basis of such tests or studies as it deems adequate.

(c) Where such piece rates are established, the requirements of sections 72.16 (1) (e), (f) and (g) shall be waived.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.08 Agricultural piece rates. (1) In accordance with the provisions of section Ind 72.07 (4) (b) the following piece rates are approved:

- (a) *Picking cherries.* 28 cents per 9 pound pail or 3.1 cents per pound.
- (b) *Picking strawberries.* 9 cents per quart.
- (c) *Harvesting green or table onions.* 16 cents per dozen bunches.
- (d) *Picking cucumbers.* The processor or employer may establish specific piece rates based on size distribution providing that the sum of the grading rates paid times the size distribution percentage returns to the picker not less than \$2.32 per CWT. The distribution percentages shall be based on the following chart:

Wisconsin Percent Distribution of Field Run Cucumbers

Diameter	Percent	Diameter	Percent	Diameter	Percent
Up to 13/16".....	11	Up to 1" — 4/16".....	4	Up to 1" — 11/16".....	4
14/16".....	3	1 — 5/16".....	5	1 — 12/16".....	4
15/16".....	3	1 — 6/16".....	5	1 — 13/16".....	4
1".....	3	1 — 7/16".....	5	1 — 14/16".....	4
1 — 1/16".....	3	1 — 8/16".....	4	1 — 15/16".....	4
1 — 2/16".....	4	1 — 9/16".....	4	2".....	4
1 — 3/16".....	4	1 — 10/16".....	4	Oversize.....	14

Note: The above field run distribution is based on a 3-year average of pounds per grade data from 5 of the largest cucumber processors in Wisconsin.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.09 Nonprofit seasonal recreational camps. (1) **WEEKLY BASIS.** The minimum wage of adult women and minors employed in nonprofit seasonal recreational camps for 45 or more hours per week shall be computed on a weekly basis as follows:

- (a) *Adult women and minors 18 years of age and over:*
1. If board and lodging are not furnished ----- \$58.50
 2. If board only is furnished ----- \$42.90
 3. If board and lodging are furnished ----- \$32.40
- (b) *Minors 17 years of age and under:*
1. If board and lodging are not furnished ----- \$49.50
 2. If board only is furnished ----- \$33.90
 3. If board and lodging are furnished ----- \$23.40

(2) **HOURLY BASIS.** The minimum wage of adult women and minors employed in nonprofit seasonal recreational camps for less than 45 hours per week shall be computed on hourly basis as prescribed in section Ind 72.03 (1). ✓

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.10 Nonprofit colleges and universities. (1) Recognized nonprofit colleges and universities subject to the minimum wage law may employ students enrolled in the institution at a lesser wage than prescribed in section Ind 72.03 ✓ but not less than \$1.10 per hour. This lower rate will apply only to full-time students carrying 12 or more credits who work on a part-time basis and for not more than 15 hours per week. Employment records of such students must contain the information required by section Ind 72.16. ✓

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.11 Caddies. (1) The minimum wage of adult women and minors employed as caddies shall be \$1.50 for 9 holes or \$3.00 for 18 holes.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.12 Unwed mothers in domestic service. The minimum wage of unwed mothers placed in domestic service by the state department of public welfare or an agency licensed under the provisions of section 48.66, ✓ Wis. Stats., shall not be less than \$21.00 per week plus room and board.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.13 Telephone exchanges. (1) **MINIMUM RATES.** The minimum hourly rates to be paid by telephone exchanges to adult women and minors employed as operators are those prescribed in section Ind 72.03 (1). ✓

(2) **PAY HOURS.**

(a) For the 16 hour period 6:00 a.m. to 10:00 p.m. of the same day, telephone exchanges shall pay their operators as a minimum for no less than the number of hours indicated on the following schedule:

Size of exchange	Hours to be counted as pay hours
1-199 telephones -----	12
200 telephones and over -----	16

(b) For the 8 hour period 10:00 p.m. of one day to 6:00 a.m. of the following day, telephone exchanges shall pay their operators as a minimum for not less than the number of hours indicated in the following schedule:

Size of exchange	Hours to be counted as pay hours
1-199 telephones -----	3
200-399 telephones -----	4
400-599 telephones -----	6
600 telephones or over -----	8

(3) PRIVATE RESIDENCE. In telephone exchanges which are located in a private residence and operated primarily by members of the household, the payment of wage for the operation of the switchboard of \$1.65 per month per phone will be regarded as a compliance with the minimum wage law, but if outside help is employed, such help must be paid upon the basis outlined in subsections (1) and (2).

(4) CLASSIFICATION. In determining the classification of an exchange, all telephones served by the exchange must be counted. This includes all main telephones connected to the central office equipment, all extension telephones including P B X extensions and telephones for which switching service is performed on lines not owned by the exchange giving the switching service.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.14 Subminimum Wage Licenses. (1) HANDICAPPED EMPLOYEE. A sub-minimum wage license may be issued for a woman or minor employe who is unable to earn the prescribed minimum wage. Each license so granted shall establish a wage for the licensee which shall be commensurate with his or her ability, and no licensee shall be employed at a rate less than the rate so established.

(2) WORK TRAINING OR WORK EXPERIENCE PROGRAM. A sub-minimum wage license may be issued to a woman or minor student who is enrolled in an approved high school or vocational school work training or work experience program, providing the employment is a true learning experience, is based on a bona-fide curriculum, and where proper scholastic credit is given. Such license will apply only to work performed during regular school hours.

(3) SHELTERED WORKSHOPS. Special sub-minimum wage licenses may be issued to qualifying sheltered workshops to permit the employment of handicapped women and minors at a lesser hourly wage than prescribed by section Ind 72.03 (1). The special license may be issued for the entire workshop or department of the workshop. Such license will cover only those workers who are unable to earn the minimum wage and who are paid commensurate with their ability and productivity. The following definitions and policies shall be used when issuing such licenses.

(a) "Sheltered workshop," "curative workshop," or "workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers and of providing such workers with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(b) "Handicapped" worker means one whose earning capacity is impaired by age or physical or mental deficiency or injury and who is being served in accordance with the recognized rehabilitation program of a sheltered workshop within the facilities of such agency or in or about the home of the handicapped person.

(c) The special license shall be granted for a designated period of time. It shall provide a minimum rate below which the handicapped employes may not be paid. When workers are paid on a piece rate basis, the piece rate shall not be less than the prevailing piece rate paid to non-handicapped workers in the same work. Each worker on a piece rate must be paid his full piece rate earnings but not less than the hourly rate allowed by the special license.

(d) A license may be granted to a workshop to employ handicapped workers at a wage less than the minimum wage if the workshop and the workers are covered by definitions (1) and (2) and the following conditions are met.

1. Workers are so handicapped that they are unable to earn the minimum wage.

2. The workshop is carrying out a recognized rehabilitation program, medical, therapeutic, or educational, and the handicapped person may learn and gain experience.

3. That a subcontract agreement of the workshop does not constitute an unfair method of competition in commerce.

4. That the workshop is registered as a non-profit organization.

(e) Severely handicapped and inexperienced individuals who are unable to earn the rate set for the workshop may be granted a temporary individual license for employment at a lower rate than the rate set for the workshop.

(f) The special license may be cancelled by the department if it is found that:

1. The license was obtained through fraud.

2. Any terms of this order or the license has been violated.

3. The license is no longer necessary.

(g) A special license will not exempt the sheltered workshop from the records requirement of section Ind 72.16.

(4) APPLICATION. Applications for any of the above licenses may be submitted to the division of labor standards for consideration.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.15 Listing deductions from wages. An employer shall state clearly on the employe's pay check, pay envelope, or paper accompanying the wage payment the amount of and reason for each deduction from the wages due or earned by the employe, except such miscellaneous deductions as may have been authorized by request of individual employes for reasons personal to himself. A reasonable coding system may be used by the employer.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.16 Permanent records to be kept by the employer. (1) Each employer shall keep permanent records for at least 2 years, available for inspection and transcription by a duly authorized deputy of the

department, showing the following facts concerning each woman and minor employe.

- (a) Name and address.
- (b) Age.
- (c) Date of birth of all minors.
- (d) Dates of entering and leaving employ.
- (e) Time of beginning and ending of work each day.
- (f) Time of beginning and ending of each meal period.
- (g) Total number of hours worked per day and per week.
- (h) Total wages paid each payroll period.
- (i) Output of employe, if paid on other than time basis.

(2) Employers complying with the provisions of Ind 72.05 (1) ✓ Ind 72.06 (1), ✓ Ind 72.07 (1), ✓ 72.09 (1) and 72.12 ✓ will not be required to keep information required by Ind 72.16 (1) (e), (f) and (g) for those employes employed on a weekly basis.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.17 Posting of order. A summary of the provisions of this chapter must be posted in a conspicuous place in all places of employment except domestic and agricultural employments on a form prescribed by the department.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

Ind 72.18 Forms. The following form is listed in accordance with section 227.013, Wis. Stats. This form is issued by and may be obtained from the Division of Labor Standards, Department of Industry, Labor and Human Relations, 4802 Sheboygan Avenue, Madison, Wisconsin 53701. (P. O. Box 2209)

(1) LS-39 Minimum Wage for Adult Women and Minors (Summary for posting—see section Ind 72.17) ✓.

History: Cr. Register, June, 1968, No. 150, eff. 7-1-68.

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