

Chapter Ind 72

MINIMUM WAGES

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**History:** Chapter Ind 72 as it existed on December 31, 1972 was repealed, and a new chapter Ind 72 was created, Register, December, 1972, No. 204, eff. 1-1-73.

**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 consumer's 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 employe to maintain herself or himself in minimum comfort, decency, physical and moral well-being.

(4) It shall be the policy of the department to review the National Consumer Price Index in January of each year. The department may revise upward or downward by a ratio of one cent for each .4 point change in the preceding December index release using the December 1972 release as a base for the computations, but in no case shall the state minimum wage for adult employes fall below 90% of the federal minimum wage. Any change in the state minimum wage due to an increase in the federal minimum wage shall take effect on the same day as the federal minimum wage change takes effect. The first review will be in January 1974.

(5) Employes 18 years of age and over:

(a) Effective on January 1, 1973 the hourly rate for employes 18 years of age and over shall be the same as presently required by the federal minimum wage act. In the future the rate shall be computed as provided under section Ind 72.001 (4).

(b) The minimum hourly rate for employes in agriculture 18 years of age and over shall remain at the present rate of \$1.45 per hour. In the future the rate shall be computed on the basis of 90% of the

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rates for employes 18 years of age and over as provided in section Ind 72.001 (5) (a) rounded off to the nearest cent.

(6) Minors 17 years of age and under:

(a) The minimum hourly and weekly rates for minors 17 years of age and under shall be computed on the basis of 80%, rounded off to the nearest cent, of the minimum rates for employes 18 years of age and over.

(b) The minimum hourly rate for minor employes in agriculture 17 years of age and under shall be \$1.15 per hour. In the future the rate shall be computed on the basis of 80% of the agriculture rate for employes 18 years of age and over as established by section Ind 72.001 (5) (b) and rounded off to the nearest cent.

(7) Room allowances shall be computed on the basis of 20% of the prescribed minimum rate for employes based on a 40 hour week, rounded off to the nearest 5 cents.

(8) Meal allowance shall be computed on the basis of 30% of the prescribed minimum rate for employes based on a 40 hour week, rounded off to the nearest 5 cents.

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

**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) "Bona fide school training program" means a program sponsored by an accredited school and authorized and approved by the state department of public instruction or the board of vocational, technical and adult education or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the workday or workweek, supplemented by and integrated with a definitely organized plan of instruction and where proper scholastic credit is given by the school.

(3) "Department" means the department of industry, labor and human relations.

(4) "Employer." (a) The term "employer" shall mean and include every person, firm or corporation, agent, manager, representative, contractor, subcontractor or principal, or other person having control or direction of any person employed at any labor or responsible directly or indirectly for the wages of another.

(b) The term "employer" shall also 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 "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.

(5) "Evaluation program" means a program of not more than 6 months duration, except that longer periods may be approved in unusual circumstances, using the medium of work to determine a client's potential, and which meets the department of health and

social services, division of vocational rehabilitation or equivalent standards.

(6) "Handicapped worker" means an individual whose earning capacity is impaired by age, or physical, or mental, or social disability.

(7) "Industry" means a trade, business, industry, or branch thereof, or group of industries in which individuals are gainfully employed.

(8) A "minor" shall mean any person under 18 years of age.

(9) "Sheltered 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 providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(10) "Student learner" means a student of an accredited school who is employed on a part-time basis, under a bona fide written schoolwork training program agreement, to obtain both scholastic credit and employment training.

(11) "Training program" means a sheltered workshop program of not more than 12 months duration designed to (a) develop the patterns of behavior which will help a client adjust to a work environment, or (b) teach the skills and knowledge related to a specific occupational objective of a job family, and which meets the department of health and social services, division of vocational rehabilitation or equivalent standards.

(12) "Work activity center" means a workshop or a physically separated department of a workshop having an identifiable program, separate supervision and records, planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

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

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

**Ind 72.03 Minimum rates.** (1) **MINIMUM RATES.** Except as provided for in sections Ind 72.06 through Ind 72.09, no employer shall employ any employee in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

(a) Adult employees 18 years of age and over: 1.60 per hour

(b) Minors 17 years of age and under: 1.28 per hour

(2) **TIPS.** Where tips or gratuities are received by the employee from patrons or others, the employer may pay as a minimum 75% of the wage rate prescribed in section Ind 72.03 (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) 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, <sup>✓</sup> and accepted and received by the employe, an allowance may be made not to exceed the following amounts:

- (a) Lodging—adults 18 years of age and over \_\_12.80 per week or 1.85 per day  
minors 17 years of age and under\_\_10.25 per week or 1.45 per day
- (b) Meals—adults 18 years of age and over \_\_19.20 per week or .90 per meal  
minors 17 years of age and under\_\_15.35 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.

(5) HOMEWORK. Wages paid to homeworkers 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, December, 1972, No. 204, eff. 1-1-73.

**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 does not provide at least 30 minutes free from work. Any meal period where 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 consecutive minutes per shift 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.

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

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

**Ind 72.05 Agriculture.** (1) MINIMUM RATES. The minimum wage of employes employed in agriculture shall be as follows:

- (a) Adult employes 18 years of age and over: 1.45 per hour  
(b) Minors 17 years of age and under: 1.15 per hour

(2) 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:

- (a) Lodging—adults 18 years of age and over \_\_\_11.60 per week or 1.65 per day  
minors 17 years of age and under \_\_\_ 9.20 per week or 1.30 per day
- (b) Meals—adults 18 years of age and over \_\_\_17.40 per week or .85 per meal  
minors 17 years of age and under \_\_\_13.80 per week or .65 per meal

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

**Ind 72.06 Casual employment in private homes.** The minimum rates prescribed by section Ind 72.03 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 part of the business, trade, or profession of the employer. This applies to the following: baby-sitters, 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, December, 1972, No. 204, eff. 1-1-73.

**Ind 72.07 Nonprofit seasonal recreational camps. (1) WEEKLY BASIS.** The minimum wage of employes employed in nonprofit seasonal recreational camps on a weekly basis shall be computed as follows:

- (a) Adult employes 18 years of age and over:
  - 1. If board and lodging are not furnished -----\$72.00
  - 2. If board only is furnished -----\$52.80
  - 3. If board and lodging are furnished -----\$40.00
- (b) Minors 17 years of age and under:
  - 1. If board and lodging are not furnished -----\$57.60
  - 2. If board only is furnished -----\$42.25
  - 3. If board and lodging are furnished -----\$32.00

(2) HOURLY BASIS. The minimum wage of employes employed in nonprofit seasonal recreational camps on an hourly basis shall be computed as prescribed in section Ind 72.03 (1).

(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 employe, an allowance may be made not to exceed the amounts specified in section Ind 72.03 (3).

(4) RECORDS. Nonprofit seasonal recreational camps will not have to keep the daily and weekly time records required by section Ind 72.11 (1) (d), (e) and (f) for those employes employed and paid on a weekly basis.

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

**Ind 72.08 Caddies. (1)** The minimum wage of employes employed as caddies shall be \$2 for 9 holes or \$3.50 for 18 holes.

**History:** Cr. Register, December, 1972, No. 204, eff. 1-1-73.

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**Ind 72.09 Subminimum wage licenses.** (1) **SHELTERED WORKSHOPS.** Licenses may be issued for: the entire workshop, a department of the workshop, a work activities center, a training or evaluation program, and an individual handicapped worker or any combination thereof.

(a) *Application for a workshop license.* 1. Applications for licenses may be filed with the department.

2. The application shall contain answers to all questions presented on the form supplied by the department, including among other things, a description of the nature of the disabilities of the persons served by the workshop, a description of the type of employment and the programs and services provided by the workshop.

3. The application shall be signed by the president of the board of directors and by a duly authorized officer of the workshop.

(b) *Renewal of license.* Applications for renewal shall be filed 30 days prior to the expiration date.

(c) *Criteria for issuance of a license.* 1. The following criteria may be considered by the department in determining the necessity of issuing a license and the conditions to be specified therein.

a. The present and previous earnings of handicapped workers of the workshop.

b. Whether the individual handicapped workers are being paid wage rates commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality and quantity of work.

c. The nature and extent of the disabilities of individuals served by the workshop.

d. The types and duration of medical, educational, therapeutic, social work, and other rehabilitative services given to handicapped workers.

e. The extent to which the handicapped workers share, through wages, in the receipts for work done in the workshop.

f. The extent to which the handicapped workers may be learners or otherwise inexperienced.

g. The extent to which earned operating income, other than normal depreciation allowances, is used for capital expenditures for equipment, buildings or expansion of activities in situations where the adequacy of the wage rates proposed by the workshop cannot clearly be established.

h. Whether there exists any workshop/customer arrangement or subcontract agreement which constitutes an unfair method of competition in commerce and which tends to spread or perpetuate substandard wage levels.

i. Whether, in the case of nongovernment operated workshops, the organization has obtained an exemption under section 501 (c) (3) of the internal revenue code of 1954 [26 U.S.C. 501 (c) (3)] and has registered as a nonprofit organization with the appropriate state or local agencies providing for such registration.

2. In addition, the following criteria will be considered in determining the advisability of issuing a special certificate for a training or evaluation program.

a. Whether there is competent instruction or supervision.