



# Minimum Wage Policy Guide

## Chapter 4 – Who should be getting minimum wages?

---

### Table of Contents

---

	Page
Summary .....	1
4.1 Should minimum wages apply to all employees? .....	2
4.2 Who is an Employee? .....	3
4.3 Domestic workers .....	5
4.4 Workers in non-standard forms of employment .....	7
4.5 Informal economy workers .....	8
4.6 Public sector employees?.....	9
Annex 1 Minimum Wages for Public Sector Workers.....	11

### Summary

---

**In principle, minimum wages should afford adequate protection to all workers in an employment relationship, including women, youth and migrant workers, regardless of their contractual arrangements. Exclusions should be kept to a minimum, particularly in relation to vulnerable categories of workers.**

In practice, certain employees are excluded from minimum wage protection for a variety of reasons– for instance, domestic workers, workers in the informal economy, or workers in non-standard forms of employment. Home-based workers or workers in agriculture are also frequently excluded.

With respect to domestic workers, the ILO [Domestic Workers Convention, 2011 \(No. 189\)](#) considers that: “Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex” (Article 11).

According to recently adopted [Transition from the Informal to the Formal Economy Recommendation, 2015 \(No. 204\)](#), countries should also progressively extend minimum wage protections, in law and in practice, to workers in the informal economy through the process of formalization.

Minimum wages should also apply to workers in non-standard form of employment, including workers on fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties, or part-time work.

Public sector employees are often excluded – in whole or in part – from the scope of labour laws, including provisions on minimum wage fixing. However, this does not imply that no minimum wage applies to them since administrative laws or arrangements, which include pay scales, can cover them. Lower pay scales should normally be adjusted to be set no lower than the minimum wage.

## 4.1 Should minimum wages apply to all employees?

---

### The ILO standards

The [Minimum Wage Fixing Convention, 1970 \(No. 131\)](#) aims to “establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate”.

The [Minimum Wage Fixing Recommendation, 1970 \(No. 135\)](#) provides that “The number and groups of wage earners who are not covered in pursuance of Article 1 of the [Minimum Wage Fixing Convention, 1970](#) , should be kept to a minimum.”

However, when an ILO member State ratifies [Convention No. 131](#), the national competent authority may exclude certain groups of wage earners from the coverage of its minimum wage system, in principle in consultation with social partners. Subsequently, a minimum wage system established under [Convention No. 131](#) may not necessarily cover all employees.

### Legal coverage in practice

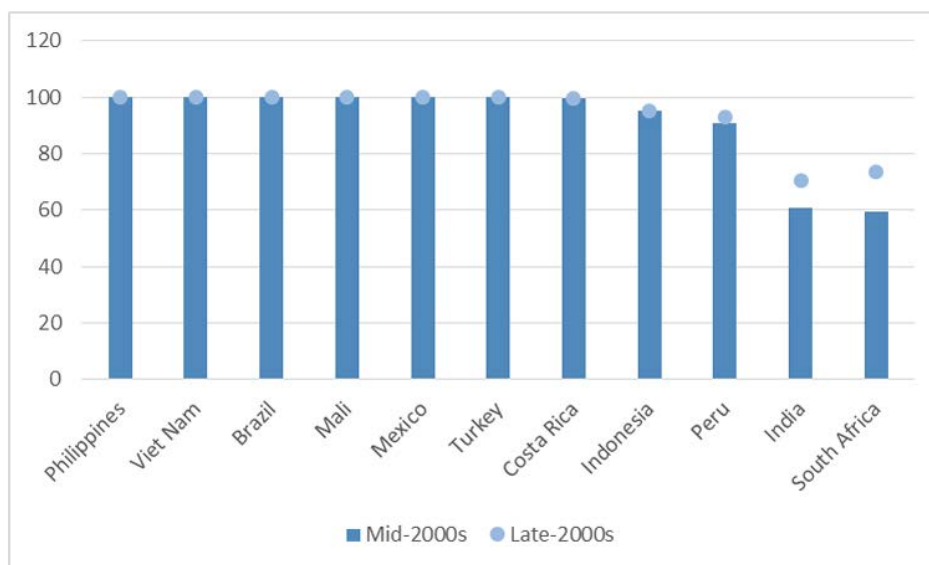
To date, the most frequent groups excluded from minimum wage systems are agricultural workers and domestic workers. Other groups often excluded include: family businesses, small enterprises, apprentices and trainees, and workers with disabilities. The case of public sector workers is discussed in [section 4.3](#).

Figure 1. here below shows the estimated coverage of minimum wage legislation over time for a series of developing economies.

As can be seen, in a majority of these countries 100 per cent of employees are legally protected by minimum wage legislation, including workers in the informal economy. By contrast, in Indonesia, Peru, India and South Africa, minimum wage coverage is less than complete. In Indonesia, minimum wages cover all employees except domestic workers. In South Africa and India, minimum wages are set for specific groups of workers by sector, occupation and/or region.

Figure 1. only considers statutory minimum wages and not minimum wages set through collective bargaining. If minimum wages set through collective bargaining were also included, this would increase the coverage of minimum wage protection.

Figure 1. Percentages of wage earners covered by minimum wage legislation in 11 developing economies



Source: Rani, U.; Belser, P.; Oelz, M.; and S. Ranjbar. 2013. 'Minimum wage coverage and compliance in developing countries' in *International Labour Review*, Vol. 152, No. 3-4.

## 4.2 Who is an Employee?

### The legal definition of an employee

By definition, minimum wages usually only directly apply to employees (wage earners), although there are some exceptions (see section 4.4). The term "employee" is used in both legal texts and statistical analyses – even though there is no international legal definition of an employee. Countries use different definitions and no uniform standard exists.

To prevent abuses, the ILO [Employment Relationship Recommendation, 2006 \(No. 198\)](#), provides non-binding guidance on criteria to be used to determine the existence of an employment relationship.

The [Recommendation](#) suggests that:

- 4(a) National policy should at least include measures to provide guidance for the parties concerned, in particular employers and workers, on effectively establishing the existence of an employment relationship and on the distinction between employed and self-employed workers.

It explains that:

- 13. Members should consider the possibility of defining in their laws and regulations, or by other means, specific indicators of the existence of an employment relationship. Those indicators might include:

(a) the fact that the work: is carried out according to the instructions and under the control of another party; involves the integration of the worker in the organization of the enterprise; is performed solely or mainly for the benefit of another person; must be carried out personally by the worker; is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work; is of a particular duration and has a certain continuity; requires the worker's availability; or involves the provision of tools, materials and machinery by the party requesting the work;

(b) periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income; provision of payment in kind, such as food, lodging or transport; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

### **Statistical estimates of the share of employees**

In developed economies, it is estimated that wage earners represent around 90 per cent of total employment. By contrast, in developing and emerging economies employees can represent as little as 30 per cent of total employment – sometimes even less.<sup>1</sup>

The share of employees in total employment has important implications for gauging who is covered by minimum wage provisions. As minimum wages only apply to employees, if they represent only a minority of workers, these protections only apply to them.

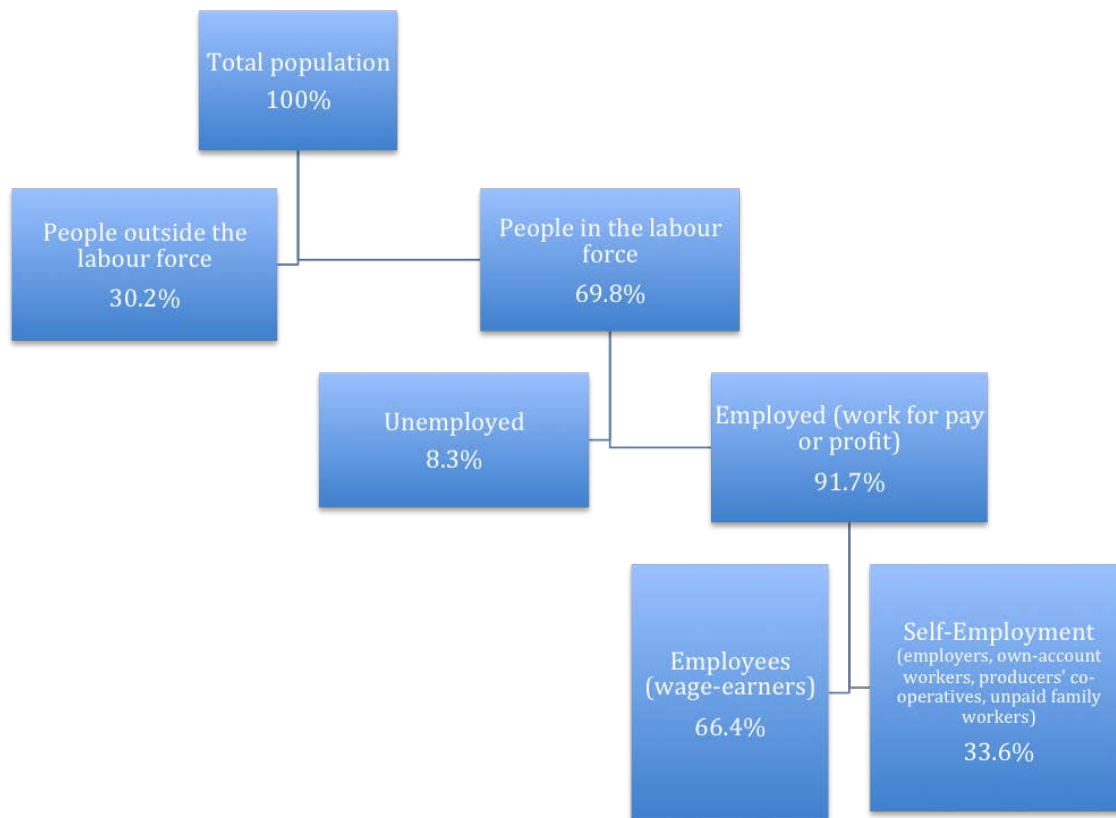
Figure 2. below shows the statistical relationship between wage employment, the labour force and the total population as a whole, illustrated by the case of Brazil in 2009. Employees (those who earn a wage) are only one subgroup among those employed. Self-employed workers do not earn a wage – they earn income from self-employment.

If there were 100 people in Brazil, about 70 (69.8 to be exact) would be in the labour force. Of those 70 people, about six would be unemployed (8.3 per cent) and 64 (91.7 per cent) would be employed. Of the 64 employed persons, about 42 would be wage earners (66.4 per cent), while the remaining 22 (33.6 per cent) would be self-employed.

**Figure 2. Relationship between wage employment, the labour force and the total population. (Brazil, 2009)**

---

<sup>1</sup> ILO [Global Wage Report 2014/15](#)



**Note:** In 2013, the International Conference of Labour Statisticians (ICLS) changed the definition of employment, the non-active population and the active population (see sources for more detailed information). Employment includes all sectors of the economy, including the public sector, at the national level.

**Sources:** [Key Indicators of the Labour Market \(KILM\)](#) ; [Resolution concerning statistics of work, employment and labour underutilization, adopted by the 19th ICLS \(2013\)](#) ; [Resolution concerning statistics of the economically active population, employment, unemployment and underemployment, adopted by the 13th ICLS \(1982\)](#) .

## 4.3 Domestic workers

Domestic workers should receive minimum wage protection equivalent to that provided to other workers generally. Minimum wage provisions are important instruments to protect the most vulnerable and lowest-paid workers – such as domestic workers – from unduly low wages. A minimum wage recognizes the basic contribution of these workers and is a key means of ensuring the principle of equal pay for work of equal value.

The [Domestic Workers Convention, 2011 \(No. 189\)](#) , explicitly states that: “Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex” (Article 11).

In line with this provision, several countries, including South Africa, Brazil, Switzerland or the U.S. have taken measures, in very different circumstances, to extend minimum wage coverage to domestic workers.

According to ILO estimates, 22.3 million domestic workers (42.5 per cent of the total) still do not have any protection against unduly low wages and no minimum wage is applicable to them.<sup>2</sup>

**A few examples:**

<sup>2</sup> [Domestic workers across the world: Global and regional statistics and the extent of legal protection](#) , pp. 75–76.

➤ [South Africa - The introduction of a sectoral minimum wage for domestic workers](#)

In South Africa, the minimum wage for domestic workers was one of a large range of reforms that were undertaken in the years following the transition from Apartheid to democracy in 1994. There are between 780'000 to more than a million domestic workers in the country, mostly African and coloured women.

The process of setting a minimum wage began seriously in 1999, five years after the first democratic elections which saw the end of the Apartheid era. The minimum wage came into effect towards the end of 2002, a little more than eight years after the first democratic election. The minimum wage for domestic workers was the result of a process that included a campaign from trade unions, an investigation into the wages and conditions of work of domestic workers, as well as a series of workshops and public hearings.

The introduction of a minimum wage and other protections for domestic workers can be considered one of the success stories of post-1994 South Africa. It was an important step in recognising domestic workers as workers with rights –a change from “servant” to “worker”. It has also been described as a part of a process of “de-slaving” and reasserting the dignity of domestic work. Previously, domestic work was perhaps the worst manifestation of exploitation of black women.

There is, however, still much “unfinished business”, as domestic workers still have one of the lowest minimum wages of all workers in South Africa, and compliance remains a challenge.

Source: Debbie Budlender, 2016. “The Introduction of a minimum wage for domestic workers in South Africa”, ILO Working Paper, Geneva.

➤ [Brazil – Constitutional Amendment assuring rights for domestic workers](#)

In Brazil, domestic work remains an important occupation for women and a key component of social organization of care work. In 2013, domestic work accounted for 6.7 per cent of occupations, amounting to a total of 6.4 million people, of which 92.6 per cent were women. It is an occupation dominated by adult (81.6 per cent aged 30 years or older) and black (64 per cent) women workers.

In recent years, within a context of international debate, legislative measures have been approved that aim to expand the rights of this historically fragile category of workers.

In 2013, 25 years after promulgation of the Constitution, a Constitutional Amendment (CA 72) was approved which finally placed domestic workers among the other categories of workers with social rights. Moreover, in 2014, Law 12.964, of 8th April, altered the former law on domestic workers of 1972, imposing fines for employers who fail to formalise the work contract.

With promulgation of CA 72, Brazilian domestic workers are now assured of a whole series of rights, including minimum wages, but also compensation in the event of dismissal without just cause; unemployment insurance; bonuses for night work (20%); wage protection (it being a crime to intentionally withhold wages); a work day of no more than eight hours and forty-four hours a week; overtime pay of no less than 50% higher than the normal hourly rate; the right to work in a place where standards of hygiene, health and safety are met; or insurance against work-related accidents.

Source: IPEA. 2016. Initial Effects of Constitutional Amendment 72 on domestic work in Brazil, ILO Working Paper, Geneva.

➤ [Switzerland – a national standard employment contract for domestic workers](#)

In Switzerland, a national standard employment contract (SEC) was introduced in 2011, setting a minimum wage for domestic workers – who represent approximately 4% of the economically active population. Although there is no statutory national minimum wage in Switzerland, the Confederation and the cantonal governments can impose SECs in branches and occupations that are not covered by a collective labour agreement, i.e. in the absence of employer and worker organizations.

After the Secretariat of State for Economic Affairs (SECO) issued a report in 2007 that documented one of the highest rates for offences and abuses in the domestic work sector, the Tripartite Commission of the Confederation (federal TPC) requested the Government to establish a SEC, including a minimum wage, for the sector.

In 2009, a tripartite expert group was mandated to design the SEC, which – once negotiated - was presented to the parties concerned – including the cantons, umbrella economic associations, political parties, and social partners from sectors in which workers perform activities similar to those of domestic workers, such as cleaning, the hotel and catering sector, agriculture and health (home-based care).

Three skill levels determine the level of the hourly minimum wage: unskilled, unskilled with at least four years of occupational experience and skilled. Skilled workers are furthermore divided into those that hold a federal vocational training certificate (FVTC) in home economics or a certificate of an initial two-year training course and those that hold a federal training certificate (FTC) in home economics or a certificate of a three-year training course.

Source: Graf, Roman. 2016. Introduction of the minimum wage for domestic workers in Switzerland, ILO Working Paper.

➤ [U.S. – Extension of minimum wages to all categories of domestic workers](#)

In the U.S., like in many other places, the journey towards the inclusion of domestic workers in minimum wage and overtime protections has been long and complicated. Domestic workers were originally excluded when the federal minimum wage was established in the 1930s. This exclusion was an outcome of the racial interests and gendered assumptions of legislators and the trade union movement alike.

In the 1970s, the minimum wage was extended to specific categories of domestic workers (like full time nannies), while other categories remained excluded (i.e. companions to the elderly and disabled).

State-based initiatives after 2010, like those for a Bill of Rights for Domestic Workers in New York, California and Hawaii, helped to lay the groundwork for further federal legislative and regulatory changes.

In 2013, under encouragement from President Obama, the Department of Labour revised its regulations to include live-in domestic workers. The only categories that remain excluded are casual babysitters, and “companions” who provide social fellowship to elderly people and people with disabilities. However, the scope of “companions” has been significantly reduced to ensure effective coverage of workers.

As a result, domestic workers are now fully included in the federal minimum wage. The initial minimum wage for domestic workers was equal to the established federal minimum wage in effect in 2013 at \$7.25 per hour. Domestic workers represent approximately 1.7 % of the total workforce.

Source: Goldberg, Harmony, 2015. The Long Journey Home: The Contested Exclusion and Inclusion of Domestic Workers from Federal Wage and Hour Protections in the United States of America, ILO Working Paper, Conditions of Work and Employment Series No.58



## 4.4 Workers in non-standard forms of employment

---

**Non-standard forms of employment (NSFE) are receiving growing attention.** They include, among others, “fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties, disguised employment relationships, dependent self-employment and part-time work”.<sup>3</sup>

Among workers employed by these different types of contractual arrangements, several are classified as employees by their relevant legal system. This holds true particularly for workers under fixed-term contracts, temporary agency workers and part-time workers, even if significant exceptions may affect these workers in some countries. For this reason, they should be covered by minimum wage laws, unless an explicit exception applies.

**International, regional and national legal instruments may also stipulate non-discriminatory treatment of workers in these forms of NSFE, in terms of wages, relative to their “standard” counterparts working for the same employer.** For instance, under the ILO [Part-Time Work Convention, 1994 \(No. 175\)](#), “measures appropriate to national law and practice shall be taken to ensure that part-time workers do not, solely because they work part time, receive a basic wage which, calculated proportionately on an hourly, performance-related, or piece-rate basis, is lower than the basic wage of comparable full-time workers, calculated according to the same method” (Article 5).

Non-discrimination principles are adopted at the regional level, in the EU Directives on Part-Time Work (97/81/EC), Fixed-Term Work (1999/70/EC), Temporary Agency Work (2008/104/EC), albeit in some cases they are subject to some exceptions.

**Some countries have also partially extended labour protection to categories of workers who do not qualify as employees under the relevant legal system.** This category is recognized as “dependent self-employment”, the definition of which varies from country to country. Individuals in dependent self-employment are not automatically covered by minimum wage regulation, but this protection may nonetheless be extended to them.

In the United Kingdom, for instance, the category, “workers”, which encompasses both “employees” and other individuals performing work or services personally,<sup>4</sup> was introduced, and labour protection was partially extended to them. Accordingly, “workers” are entitled to the national minimum wage even though they do not qualify as “employees” under United Kingdom law.

**Other workers in NSFEs may be excluded from minimum wage protection because they are misclassified.** This is particularly the case of workers in “disguised employment relationships”, which Recommendation No. 198 defines as “when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due”.

[More work is currently under way at the ILO on the subject of non-standard forms of employment.](#)

## 4.5 Informal economy workers

---

**Distinguishing the concepts: the informal sector, informal employment and the informal economy**

Developing countries are frequently characterised by the co-existence of formal and informal employment.

---

<sup>3</sup> [ILO, Governing Body, 323rd Session, Geneva, 12–27 March 2015, Conclusions of the Meeting of Experts on Non-Standard Forms of Employment \(Geneva: ILO, 2015\)](#)

<sup>4</sup> See Employment Rights Act 1996, Section 230 (3).



In 1993, the [15th International Conference of Labour Statisticians](#) at the ILO (15th ICLS) defined the **informal sector** as a group of production units comprised of unincorporated enterprises owned by households, including informal own-account enterprises and enterprises of informal employers (typically small and non-registered enterprises). This definition limited the definition of informality to enterprises.

In 2003, the 17th International Conference of Labour Statisticians at the ILO (17th ICLS) [guidelines](#) which examined informality from a different perspective, that of jobs. By doing so, they defined the concept of **informal employment** as "all remunerative work (i.e. both self-employment and wage employment) that is not registered, regulated or protected by existing legal or regulatory frameworks, as well as non-remunerative work undertaken in an income-producing enterprise. Informal workers do not have secure employment contracts, workers' benefits, social protection or workers' representation."<sup>5</sup>

In this way, while the informal sector and informal employment are distinct concepts, they are also complementary. The **informal economy** encompasses both perspectives and is defined as all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements.

### A new ILO Recommendation

With respect to minimum wages, according to recently adopted [Transition from the Informal to the Formal Economy Recommendation, 2015 \(No. 204\)](#), countries should progressively extend minimum wage protections, in law and in practice, to workers in the informal economy through the process of formalization.

In some countries, legal provisions on minimum wages do not apply to some workers in informal employment, for example when enterprises employing fewer than ten wage earners are excluded from the relevant legislation. In most countries, however, the main challenge is compliance rather legal coverage.

In other countries, the situation is more ambiguous. In Pakistan, for example, although workers in informal sector enterprises or holding informal jobs are not expressly excluded from minimum wage or industrial relations legislation, stakeholders have historically and almost universally interpreted legal protections as applicable to only employees in formal sector enterprises. As a matter of statutory construction, however, it is possible to interpret the existing legislation as including workers in informal employment or holding informal jobs.

- [See also Chapter 7.5 on the effects on formal and informal employment](#)
- [See R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 \(No. 204\)](#)

[More work is currently under way at the ILO on transition from the informal to the formal economy.](#)

## 4.6 Public sector employees?

---

In many countries, public sector employees are excluded – in whole or in part – from the scope of labour laws, including provisions on minimum wage fixing. However, this does not imply that no minimum wage applies to them since administrative laws or arrangements, which often include pay scales, can cover them. Lower pay scales are normally adjusted to be set no lower than the minimum wage.

For example, in October 2015 in Malaysia, the government announced a minimum wage for public sector employees which would enter into force July 1, 2016. This announcement was made independently from the National Wages

---

<sup>5</sup> [ILO Thesaurus](#)

Consultative Council, the body responsible for recommending minimum wages to the Government for the private sector.

By contrast, in some countries laws regulating minimum wages clearly state that public sector workers are included. For example, the minimum wage legislation applies to public workers in the Bahamas. Act No. 1 of 2002 on Minimum Wages in Commonwealth of the Bahamas and states that the Act includes "... any such employment by or under the Crown in right of the Government of The Bahamas...".<sup>6</sup>

**One concern is thus not the total exclusion of these workers from any minimum wage fixing machinery, but the possible lack of consultation with the social partners, and particularly with representative organizations of workers concerned.** Legal requirements to consult can vary by country. For example, public sector unions in Japan, by law, must be consulted regarding pay related issues. This is not the case in Chile, where there is no binding obligation to consult public sector trade unions regarding any employment issue, including wages.

**Another area of concern is the influence that an increase in the minimum wage could have on public sector spending.** If the minimum wage increases, the wages of those who earn less than the newly proposed rate will also increase. In some cases however, minimum wages act as a multiplier for higher wages within the public sector. In these cases, an increase in the minimum wage can have far reaching implications for public expenditure on public sector pay.

- [Learn more on minimum wages for public sector workers in Annex 1](#)

For more detailed information, see Chapter 2 of the [ILO General Survey on minimum wage systems, 2014](#).

---

<sup>6</sup> Act No. 1 of 2002 on Minimum Wages, Application of Act, Section 3. (1)

## Annex 1

---

### Minimum Wages for Public Sector Workers

#### *Are public sector workers covered?*

Practices vary across countries:

- In some countries, the legal minimum wage laws clearly state that public sector workers are included in the laws regarding minimum wages. For example, the minimum wage legislation applies to public workers in the Bahamas. Act No. 1 of 2002 on Minimum Wages in Commonwealth of the Bahamas states that application of the Act includes "... any such employment by or under the Crown in right of the Government of The Bahamas...<sup>1</sup>
- Most frequently, however, the public sector is excluded, in whole or in part, from the general labour legislation, and consequently from its provisions on minimum wage fixing. When the public sector is excluded, wage setting for the public sector is often based on administrative law, which sets out how wages should be determined for these workers. These laws can set wages for public sector workers from national level down to provincial and local levels. While many countries have laws with provisions that set public sector wages higher, some countries do use the national minimum wage set in the private sector as a basis for wage setting for government workers. These minimum wages can be applied to some categories of public sector workers or to all public sector workers in the country.
- In some countries minimum wage laws may apply to some categories of public sector workers, but not to others. Public workers that are not included in these laws in many countries often include the military, security services, and police whose wage levels. In Zambia, for example, the employment law excludes the military, the police and the prison services.<sup>2</sup> In Uganda, only the military is excluded from minimum wage coverage in the law.<sup>3</sup> In countries that exclude some categories of workers, other laws and regulations will set base pay levels for the specific group of public sector workers not covered by other labour laws.

#### *How does the minimum wage affect public sector wage scales?*

A major influence on wage levels for public sector workers is the impact that these levels may have on public spending. For this reason, national legislative bodies (e.g. parliament, congress, etc.) will have some level of influence on decisions regarding wages paid to public workers, usually by providing final approval on any wage setting exercise.

Of course, not all public sector workers are paid the same, and minimum wages directly only apply to a fraction of public sector workers. Wages in the public sector differ across workers depending on the grade level of the worker, such as managers who may be on different pay grades or levels than workers. There also may be pay differences based on the level of government in question (e.g. local, provincial/state, national). However, changes in minimum wages can have large impacts on the public sector wage bill. Indeed, the minimum wage can

<sup>1</sup> Act No. 1 of 2002 on Minimum Wages, Application of Act, Section 3. (1)

<sup>2</sup> Employment Act, Part I, Section 2 of Zambia.

<sup>3</sup> Employment Act, 2006, Part I, Section 3 of Uganda.

act as a base upon which public sector wages can be set at higher levels. In this case some categories of public workers will earn the minimum wage, and higher rank public sector workers will be paid for example two or three times the minimum wage. In such a case, the minimum wage acts as a baseline for the wages of many or all public sector workers, and increases in minimum wages can have large “spill-over” or “domino” effects on the entire public sector wage bill. Hence the effects of minimum wages on the public sector wage bill, will depend on how public sector wages are set.

### *How are public sector wages determined?*

#### **(a) Collective bargaining**

One method of wage setting in the public sector is collective bargaining between government and public sector unions. Collective agreements between public sector workers and the government can be done centrally, or can be decentralized. Collective bargaining is commonly found in the public sector in Northern European countries, such as Sweden and Finland<sup>4</sup>. In Sweden and Finland wages are negotiated in a two tiered collective bargaining system, in which the central collective agreement specifies an average salary for all public workers, but allows ministry directors to use comparable wages outside of the agency to set wage levels above the collectively bargained minimum level.

In Germany collective bargaining is used, but public sector workers are divided into two distinct groups: civil servants (*Beamte*) and public employees (*Tarifebeschäftigte*). *Beamte* cannot collectively bargain or strike and the government sets terms and conditions of employment, including wages. *Tarifebeschäftigte* are regulated by civil law and similar conditions to private industry including the right to collectively bargain. The negotiations for the *Tarifebeschäftigte* can in principle influence the wage setting for the *Beamte*.<sup>5</sup> This is similar to the situation in Israel, where centrally organised collective bargaining takes place as a basis for a second collective agreement negotiated with trade unions for professional public sector workers. Brazil has this form with a centralised collective bargaining framework instituted and two forms of remuneration are set for different groups of workers.

In Turkey, public sector trade unions must be legally be consulted regarding any issues affecting remuneration. Negotiations on public sector working conditions, including remuneration, are highly centralised. The result of negotiations on remuneration, including wages, can lead to only one set of agreements that cover all public sector workers. In Mexico, agreement on wages and remuneration between public sector unions and the government is legally mandatory, with this agreement applying to all public sector workers.

De facto negotiations can also be decentralised. For example, in Australia base pay for public sector workers is determined through decentralised negotiations. Departments of the government negotiate base salary with respective public sector unions. While leading to consistent remuneration outcomes for workers within a government department, this also can create significant differences in pay for workers in different government departments.

<sup>4</sup> This is also in line with Part IV, Article 7, of the ILO Labour Relations (Public Service) Convention, 1978 (No. 151) which encourages the full development and utilisation of the machinery to negotiate working conditions for employees. Both Sweden and Finland have ratified ILO Convention No. 151.

<sup>5</sup> Keller, B. (2013), Germany: The public sector in financial and debt crisis, *European Journal of Industrial Relations*, 19(4), pgs. 359-374.

It is also important to note that pay can vary between levels of the government. Public workers, who work for the national government, as described above, may be covered by collective bargaining agreements that do not apply to state, regional, or local government. Also, collective agreements may be used in some layers of government, but not others. Similarly, state, provincial or local governments might also determine wage levels to be paid to public sector workers at the respective levels. For example, a provincial governor might legally set pay and remuneration levels for public sector workers based on commission recommendations, collective agreements, or they may have final say on compensation. City mayors and city councils may also be able to set wages in a city. Often the levels of pay for regional, state, or local public workers is less than national government workers, but this may be different if in large or industrial cities in a country.

#### **(b) State decides with or without consultation**

Wages for public workers can be set simply by unilateral state decision-making. In these countries the role of the public sector union may be limited to only consultations, not collective bargaining. In addition, the state may rely on recommendations made by state appointed bodies (e.g. committees or commissions) that review wages and remuneration for public sector workers. These bodies then provide this information to the government who make the final decision on wages and remuneration.

The legal requirement to consult can vary by country. In some countries there is a legal obligation to consult on wages. Public sector unions in Japan, by law, must be consulted regarding pay related issues. Base pay is based on the recommendations of an independent examining committee. These recommendations form the basis of remuneration for Japanese public sector workers, which is then centrally negotiated.

In other countries there is not legal requirement for the government to consult public sector trade unions. There is no binding obligation to consult public sector trade unions in Chile regarding any work or employment issue, including wages. However, public sector unions are consulted on a voluntary basis on wage related issues. While consultation requires no legal obligations and offers limited influence on the wage setting process, it can be important as it provides public sector unions with the opportunity to present their views on wage and remuneration issues public sector workers.

In some countries the government decides without consultation. Base salary for public sector workers in the Russian Federation are set by recommendations of the government. While public sector trade unions are consulted on working conditions, base wages are determined and decided by the government.