

Please Post Next to Your IWC Industry or Occupation Order

Amends Title 8
California Code of Regulations
Section 11000 and amends
certain subsections of
Sections 11010 through 11150.

Effective October 1, 1996

OFFICIAL NOTICE



Industrial Welfare Commission Minimum Wage Order **MW-96 (Revised)***

Minimum Wage—Every employer shall pay to each employee wages not less than the following:

| <i>Effective Date</i> | <i>Minimum Wage per Hour</i> |
|--------------------------|------------------------------|
| October 1, 1996 | \$4.75 |
| March 1, 1997 | \$5.00 |
| September 1, 1997 | \$5.15 |
| March 1, 1998 | \$5.75 |

SUMMARY OF ACTIONS

TAKE NOTICE: The Industrial Welfare Commission (IWC), pursuant to its authority in the California Labor Code, and Article 14, Section 1 of the Constitution of the State of California, has adopted new minimum wage rate increases for employees in this state. This order amends MW-88 and MW-96 and amends certain minimum wage sections of all the IWC's industry and occupation orders as contained in Title 8, Sections 11000 through 11150 of the California Code of Regulations.

On August 23, 1996, the IWC, pursuant to California Labor Code Section 1182 (b), adopted the federal minimum wage rate increases, effective on October 1, 1996, and September 1, 1997 [Small Business Job Protection Act of 1996, Section 2104]. On November 22, 1996, the IWC also adopted increases in the minimum wage, effective on March 1, 1997, and March 1, 1998, consistent with the Living Wage Act of 1996 [Proposition 210 on the November 1996 California ballot which adds Section 1182.11 to the California Labor Code]. The specific changes to the minimum wage which the IWC adopted are noted above and below.

The reasons and authority for amending Section 2, Minimum Wages, are contained in this summary. Section 1, Applicability; Section 3, Meals and Lodging; and Section 4, Separability; and their statements as to the basis, remain the same as in Minimum Wage Order No. MW-88 and are printed as part of this order. The IWC took no action with regard to those sections.

1. APPLICABILITY

The provisions of this Order shall not apply to employees directly employed by the State or any county, incorporated city or town or other municipal corporation, or to outside salespersons.

The provisions of this Order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

Exceptions and modifications provided by statute or in Section 1, Applicability, and other sections of the Industrial Welfare Commission's industry and occupation orders may be used where any such provisions are enforceable and applicable to the employer.

2. MINIMUM WAGES

Every employer shall pay to each employee wages not less than four dollars and seventy-five cents (**\$4.75**) per hour for all hours worked, effective October 1, 1996; not less than five dollars (**\$5.00**) per hour for all hours worked, effective March 1, 1997; not less than five dollars and fifteen cents (**\$5.15**) per hour for all hours worked, effective September 1, 1997; and not less than five dollars and seventy-five cents (**\$5.75**) per hour for all hours worked, effective March 1, 1998.

** As revised by the Living Wage Act of 1996*

3. MEALS AND LODGING

Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

Lodging:

| | |
|--|---------------------|
| Room occupied alone | \$ 20.00 per week |
| Room shared | \$ 16.50 per week |
| Apartment—two-thirds (2/3) of the ordinary rental value, and in no event more than | \$ 240.00 per month |
| Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than | \$ 355.00 per month |

Meals:

| | |
|-----------------|---------|
| Breakfast | \$ 1.50 |
| Lunch | \$ 2.10 |
| Dinner | \$ 2.80 |

4. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

5. This order amends the minimum wage amounts in Minimum Wage Order No. MW-96, amends minimum wage Section 4 (Minimum Wages) of the Industrial Welfare Commission's industry and occupation orders contained in the California Code of Regulations as follows: It amends Title 8, Sec. 11000 (Order MW-96); it also amends subsection 4 (A) of Title 8, Secs. 11010 (Order 1), 11020 (Order 2), 11030 (Order 3), 11040 (Order 4), 11050 (Order 5), 11060 (Order 6), 11070 (Order 7), 11080 (Order 8), 11090 (Order 9), 11100 (Order 10), 11110 (Order 11), 11120 (Order 12), 11130 (Order 13), 11140 (Order 14), 11150 (Order 15).

Amendments adopted on August 23, 1996 and November 22, 1996 in San Francisco.

INDUSTRIAL WELFARE COMMISSION
STATE OF CALIFORNIA

QUESTIONS ABOUT ENFORCEMENT of the Industrial Welfare Commission orders and reports of violations should be directed to the Division of Labor Standards Enforcement. Consult the white pages of your telephone directory under CALIFORNIA, State of, Industrial Relations for the address and telephone number of the office nearest you. The Division has offices in the following cities: Bakersfield, Eureka, Fresno, Long Beach, Los Angeles, Marysville, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Barbara, Santa Rosa, Stockton, Van Nuys.

Statement as to the Basis upon which Retained Sections of IWC Order No. MW-88 are Predicated

1. APPLICABILITY

The IWC included a section on applicability in MW-88 to ensure consistency with the applicability provision contained in each of its industry and occupation orders. It was the IWC's intent to make clear that it was not changing the scope of applicability in MW-88 from that contained in Sections 1 and 2 of MW-80, and in Section 1 of each of the IWC orders. The IWC's reference in paragraph 3 to exceptions and modifications was contained in Section 1 of Order No. MW-80. The IWC decided there was no reason to change this reference except to reword it for purposes of clarity and to add the reference to exceptions and modifications provided by statute. This additional reference was included to recognize that there may be statutes which provide exceptions to one or more of the IWC orders (including amendments thereto, and MW-88), or which may modify the application of those orders.

2. MINIMUM WAGES

[See Summary of Actions on reverse side for explanation of minimum wage increases.]

3. MEALS AND LODGING CREDITS

Historically, the IWC has limited the amount of

credit for meals and lodging that could be used as an offset against the employer's minimum wage obligations. The IWC asked the 1987 Minimum Wage Board to make recommendations on this provision consistent with the health and welfare of employees. Although that board was unable to agree on any recommendation, it did discuss a motion calling for credit increases which would proportionately equal any increase in the minimum wage. Employer representatives argued that such "increases would potentially benefit employees by increasing the probability of being offered meals and lodging associated with a job" and pointed out that employees could "choose to reject such offers as part of their employment package." They also noted that "the meals and lodging received are substantially below fair market value." Employee representatives disputed whether "employees have the unrestricted option of a full minimum wage or a reduced wage with meals and/or lodging."

The IWC proposed that the level of the amounts credited for meals or lodging be proportionate with the proposed increase in the minimum wage, and although no one testified in support of this specific proposal, several persons indicated support of all the proposals. Others suggested, however, that an increase in the

meals and lodging credits would merely offset any increase in the minimum wage. The IWC decided that the relationship between the minimum wage and meals and lodging credits which existed upon the promulgation of the 1980 orders was proper and concluded that the same relationship should be maintained. On December 18, 1987, the IWC adopted a proposal to increase the meals and lodging credits 26.9 percent, proportionate to the increase in the minimum wage.

4. SEPARABILITY

A section on separability was contained in Order No. MW-80 and is contained in each of the IWC industry and occupation orders. The IWC intends that MW-88 be fully effective and enforceable. Should any part of MW-88 be declared invalid, the IWC intends, by this provision, that the part found invalid be severed from the order and thus maximize the protections for employees. The IWC decided there was no reason to warrant any change in this section.

INDUSTRIAL WELFARE COMMISSION
adopted January 22, 1988

IWC FORM 1116 (Rev. 11-96)

OFFICIAL NOTICE

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