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**In Kind Benefits as Partial Payment of Wages:  
A review of laws around the world**

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# **In kind benefits as partial payment of wages: A review of laws around the world<sup>1</sup>**

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by Richard Anker and Nicole Anker

## **1. Introduction**

This paper is concerned with in kind benefits received by workers and how they are treated in national laws – in particular whether the value of in kind benefits are considered as partial payment of wages and, if so, under what conditions and how their monetary value is determined. This review is based to a large extent on information on national laws in 162 countries from around the world. This analysis is supplemented by analysis of how in kind benefits are treated in International Labor Organization ("ILO") conventions; laws and regulations of the federal government and five states in the United States; and collective bargaining agreements from six developing countries. Despite data limitations, this is, as far as we know, the most comprehensive and systematic international review of in kind benefits and how they are treated as partial payment of wages.

Section 2 is concerned with terminology defining what is meant by in kind benefits, remuneration, and wages. Section 3 discusses how in kind benefits as partial payment of wages

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<sup>1</sup> Funding for this review was provided in part by the Dutch Government under the ISEAL project entitled Catalyzing Movement towards Living Wage in Sustainability Standards. Conclusions from this review were used by Richard Anker and Martha Anker to help formulate guidelines for how to calculate the value of in kind benefits as partial payment of wages in their recently published book (*Living wages around the world: Manual for measurement*, Edward Elgar Publishing, 2017) and these guidelines are being used by the Global Living Wage Coalition to calculate prevailing wages and gaps to a living wage in their living wage studies in developing countries.

have been treated in ILO conventions that are often considered similar to international law. This discussion provides important background to understanding national law and practice, because labor laws in many countries are based in part on ILO conventions. Section 4 describes sources of information and databases used in this paper along with their limitations. Section 5 presents an analysis of national laws for 162 countries. This is the main substantive part of this paper. Appendix A includes details of national laws for 162 countries. This information is summarized in several tables in section 5. Section 6 looks at how in kind benefits are treated at the federal level and in five states in the United States, since the United States provides interesting ideas and examples as each state in the United States has its own labor law. Section 7 briefly discusses how in kind benefits are treated in some collective bargaining agreements ("CBAs") in developing countries, because the legal review in section 5 finds that it is common for valuation of in kind benefits to be set in CBAs. Section 8 provides some conclusions. Annex A provides information for 162 countries on how in kind benefits are treated in national laws. Annex B provides extracts of how in kind benefits are treated in laws and regulations for five states and the federal government of the United States.

## **2. Terminology**

### ***2.1 What are remuneration and wages?***

According to ILO Convention 95 (Protection of Wages Convention), “**wages** means remuneration or earnings, however designated or calculated, capable of being expressed in money terms.” According to ILO Convention 100 (Equal Remuneration), “**remuneration** includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.” This means that remuneration or wages can be received by workers in a variety of forms.

## ***2.2 What are in kind benefits?***

According to the Organization for Economic Co-operation and Development ("OECD"), "Payments in kind are goods and services furnished to employees free of charge or at markedly reduced cost that are clearly and primarily of benefit to the employee as consumers. They comprise food, drink, fuel and other payments in kind; and cost, other than capital cost, of workers' housing borne by employers (cost for employer owned dwellings, cost of dwellings not employer owned, other housing costs)."<sup>2</sup> Furthermore, "in kind benefits are goods and services that are not necessary for work and can be used by employees in their own time, and at their own discretion for the satisfaction of their own needs or wants or those of other members of their households."<sup>3</sup>

In kind benefits reduce the amount of cash wages that workers require for living expenses. For example when workers receive free lunch, housing, and transport to work, their living costs are reduced. This means that workers need less in terms of a cash wage when they receive in kind benefits in order to ensure that they receive a minimum wage or a living wage.

Workers receive a variety of in kind benefits around the world. They are especially important and prevalent in certain industries (e.g. agriculture and restaurants), occupations (e.g. domestics and servers), and countries. Our review of laws around the world in section 5 indicates that almost all of the countries that expressly mention particular goods or services consider food and/or lodging to be acceptable forms of in kind benefits. Mentioned to a lesser extent are clothing, transport, fuel and electricity, and medical care. We found in recent living wage studies undertaken for members of the Global Living Wage Coalition (GLWC) that a wide range of in

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<sup>2</sup> OECD, Glossary of Statistical Terms, In kind Payments. <http://stats.oecd.org/glossary/detail.asp?ID=2026>

<sup>3</sup> OECD, Glossary of Statistical Terms, In kind Payments. <http://stats.oecd.org/glossary/detail.asp?ID=2893>

kind benefits are provided by employers such as: food sold at a reduced price, medical care, transport to and from work, crèche, meals, and housing.<sup>4</sup>

### **3. In kind wage payments and ILO Conventions, Recommendations and background reports for discussions at International Labour Conferences**

In kind payment of wages is addressed in a number of ILO Conventions and Recommendations. This includes Convention 95 and Recommendation 95 (Protection of Wages, 1949); Convention 99 and Recommendation 89 (Minimum wage fixing machinery (Agriculture), 1951); Convention 110 and Recommendation 110 (Plantations, 1958); Recommendation 115 (Workers' Housing, 1961); Convention 117 (Social Policy (Basic Aims and Standards, 1962); and Convention 189 and Recommendation 201 (Domestic Workers, 2011). In kind benefits are also included in the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (2006). Furthermore, in kind benefits are discussed at length in ILO reports concerned with wages prepared by Committees of Experts for discussion in International Labor Conferences.

#### ***3.1 In kind benefits historical context***

Allowing in kind benefits to be considered as partial payment of wages is easier to justify in the abstract than in practice. In kind benefits can be of considerable personal value to workers, for example when they receive free meals, housing, or transport to work. In kind benefits can also be a major expense for employers. Unfortunately, many employers have abused how they have provided and valued in kind benefits. "Historically, the payment of wages in kind has led to abuses. The method of payment known as the 'truck system', or barter, as practiced by employers who exploited the wretchedness of those workers, kept the workers in a state of

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<sup>4</sup> For examples of in kind benefits see

[http://www.fairtrade.net/fileadmin/user\\_upload/content/2009/resources/LivingWageReport\\_Malawi.pdf](http://www.fairtrade.net/fileadmin/user_upload/content/2009/resources/LivingWageReport_Malawi.pdf),

[http://www.fairtrade.net/fileadmin/user\\_upload/content/2009/resources/LivingWageReport\\_Kenya.pdf](http://www.fairtrade.net/fileadmin/user_upload/content/2009/resources/LivingWageReport_Kenya.pdf).

dependency bordering on slavery” (ILO, Protection of Wages report to International Labor Conference 91st Session, 2003).

ILO reports prepared by Committees of Experts for discussion in International Labor Conferences are quite clear that there is a continuing controversy surrounding in kind benefits among tripartite stakeholders. For Convention 99 in 1951 (Minimum wage fixing machinery (Agriculture), 1951), “The Workers’ group expressed its intention of establishing a provision prohibiting this [in kind] form of payment of minimum wage” (ILO, 1992). This was not included in the convention. In 1967, “When this matter was discussed by the Meeting of Experts in 1967, the view was that the ideal situation would be to prohibit the partial payment of minimum wages in kind” (ILO, 1992). Discussions in 1971 prior to Convention 131 (Minimum wage fixing, 1971) indicated that “Once again during the Conference this point [prohibiting in kind benefits as partial payment of minimum wages] was the subject of long discussions” (ILO, 1992). “The question of whether to include a provision in Convention No. 131 regarding the partial payment of the minimum wage in kind was submitted to member States in the questionnaire prepared by the Office for the first Conference discussion. It emerged from the responses that the ratification of a new Convention would run into difficulties if it did not include a provision authorizing the partial payment of minimum wages in kind. However, many governments felt that this practice, while it might be necessary in certain circumstances, should be discouraged.” Inclusion in proposed text for the convention that “arrangements should be made for the valuation of any part of minimum wages paid in kind to be subject to the approval of the competent authority, which should, as far as possible, fix the maximum percentage of minimum wages which may be paid in kind in particular activities or particular circumstances” was deleted because “in the absence of agreement, the Committee finally decided, by a narrow majority” (ILO, 2014).

The Committee of Experts in 2014 strongly suggested (as the following quotes were in bold) that:

“Consideration could be given to reviewing national provisions which include all or part of allowances in kind in the minimum wage, given the difficulty of defining the cash value of such allowances, with a view to ensuring that the minimum wage retains its full meaning and really allows workers to meet their needs and those of their families, and are free to dispose of their wages. ...The Committee wishes to emphasize the need to bear in mind the role of the minimum wage in combating poverty and preserving the purchasing power of workers” (ILO, 2014).

“Encourage the tripartite constituents to endeavor to limit the items included in the minimum wage to what appears to them strictly necessary in view of the situation in the country. The Committee therefore considers that caution is required in taking into account benefits in kind” (ILO, 2014).

In summary, it is clear that tripartite stakeholders of the ILO accept the need to allow in kind benefits as partial payment of minimum wages. At the same time, it is also clear that there is great concern about possible abuse and so there is a strong view that caution is required regarding allowing and valuing in kind benefits as partial payment of wages.

### ***3.2 ILO Conventions and Recommendations and in kind benefits as partial payment of wages***

In this section, we summarize and highlight how ILO Conventions and Recommendations treat in kind benefits as partial payment of wages.

3.2. Need for in kind benefits to be: (i) customary or desirable, (ii) for personal use and benefit of workers, and (iii) assigned a fair and reasonable value.

Article 4 (1) of the ILO Protection of Wages Convention 95 (1949), which is concerned with standards involving wage payments, sets out three conditions for authorizing in kind benefits as partial payment of wages:

1. “National laws or regulations, collective agreements or arbitration awards may authorize the partial payment of wages in the form of allowances in kind in [indentation, numbering and underlining added for clarity]:

(1) industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned;

(2) the payment of wages in the form of liquor of high alcoholic content or of noxious drugs shall not be permitted in any circumstances.

2. In cases in which partial payment of wages in the form of allowances in kind is authorized, appropriate measures shall be taken to ensure that --

(a) such allowances are appropriate for the personal use and benefit of the worker and his family; and

(b) the value attributed to such allowances is fair and reasonable.

Other ILO Conventions and Recommendations also address issues related to in kind benefits as partial payment of wages. Although they frequently repeat the need stated in ILO Convention 95 for in kind benefits to be: (i) for industries and occupations where it is customary or desirable, (ii) appropriate for personal use and benefit of worker, and (iii) have a monetary value that is fair and reasonable, there are some important additions. These include the following:

### 3.2.2 Limit on monetary value of in kind benefits

ILO Convention 189 (Domestic Workers, 2011) Article 12 (2) is concerned with limiting the monetary value of in kind benefits: “May provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind.” Recommendation 201 (Domestic Workers, 2011) Article 14 elaborates further. “When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:



(a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families”

### 3.2.3 Minimum standards for in kind benefits

Both Plantations Convention 110 (1958) and Workers Housing Recommendation 115 (1961) state that minimum standards should be set for certain in kind benefits. According to Plantations Convention 110 (1958) Article 27 (3) and Social Policy (Basic Aims and Standards) Convention, 117 (1962), “Where food, housing, clothing and other essential supplies and services form part of remuneration, all practicable steps should be taken to ensure that they are adequate and their cash value properly assessed.” Article 86 (2) provides detailed specifications for adequate housing:

“Minimum standards shall include specifications concerning -- (a) the construction materials to be used; (b) the minimum size of accommodation, its layout, ventilation, and floor and air space; (c) verandah space, cooking, washing, storage, water supply and sanitary facilities.”

According to Workers Housing Recommendation 115 (1961) Articles 7 and 8,

7. “The housing standards referred to in Paragraph 19 of the General Principles should relate in particular to--

(a) the minimum space per person or per family as expressed in terms of one or more of the following, due regard being had to the need for rooms of reasonable dimensions and proportions:

- (i) floor area;
- (ii) cubic volume; or
- (iii) size and number of rooms;

- (b) the supply of safe water in the workers' dwelling in such ample quantities as to provide for all personal and household uses;
- (c) adequate sewage and garbage disposal systems;
- (d) appropriate protection against heat, cold, damp, noise, fire, and disease-carrying animals, and, in particular, insects;
- (e) adequate sanitary and washing facilities, ventilation, cooking and storage facilities and natural and artificial lighting;
- (f) a minimum degree of privacy both --
  - (i) as between individual persons within the household; and
  - (ii) for the members of the household against undue disturbance by external factors; and
- (g) suitable separation of rooms devoted to living purposes from quarters for animals.”

8. “Where housing accommodation for single workers or workers separated from their families is collective, the competent authority should establish housing standards providing, as a minimum, for --

- (a) a separate bed for each worker;
- (b) separate accommodation of the sexes;
- (c) adequate supply of safe water;
- (d) adequate drainage and sanitary conveniences;
- (e) adequate ventilation and, where appropriate, heating; and
- (f) common dining rooms, canteens, rest and recreation rooms and health facilities, where not otherwise available in the community.”

It is also worth noting that the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (2006) Article 34 commits multinational enterprises to ensuring that in kind benefits are adequate. “Where they [multinational employers] provide workers with basic amenities such as housing, medical care or food, these amenities should be of a good standard.”

### 3.2.4 Methods to assess and calculate monetary value of in kind benefits

ILO Convention 189 (Domestic Workers, 2011) Article 12 (2) (b) mentions different objective ways to calculate the monetary value of in kind benefits: “calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate.”

### 3.2.5 Need to inform workers when in kind benefits are deducted from their pay

Several ILO Conventions indicate that workers should be informed of all deductions from pay including for in kind benefits. For example, ILO Convention 95 (Protection of Wages, 1949) Article 8 (2) indicates that “Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.”

### 3.2.6 Worker agreement required

Domestics Workers Convention 189 (2011) Article 12 (2) states that measures should be “taken to ensure such payments in kind are agreed to by workers.”

## **4. Databases and information used in this paper**

The review and analysis below in section 5 of how in kind benefits are treated in national wages laws around the world is based on: (i) ILO TRAVAIL minimum wage legal database,<sup>5</sup> (ii) published ILO reports prepared for discussion in International Labor Conference Sessions concerned with wages in 1992, 2003 and 2014;<sup>6</sup> and (iii) our further investigation of many national laws. The ILO minimum wages legal database includes information for 158 countries. It is based on content analysis of relevant national laws and acts. Information for each country is

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<sup>5</sup> <http://www.ilo.org/dyn/travail/travmain.sectionChoice2>.

<sup>6</sup> ILO (2014). Minimum wage systems. Report for International Labor Conference 103<sup>rd</sup> Session. ILO (2003). Protection of Wages. Report for International Labor Conference 91st Session. ILO (1992). Minimum wages: Wage fixing machinery, application and supervision. Report III (Part 4B) for International Labor Conference 79th Session.

presented under various headings and topics. The most important for this current paper are: names and dates of relevant laws and acts, levels of minimum wages, in kind allowances, and legal definition of wage. Also important for analysis in section 5 are links to national laws and acts in the ILO database, as this facilitated our further investigation of national laws when we felt it was necessary or useful to do so. It is worth noting that this is an excellent database, as we did not find many examples of misleading or incorrect content. However, we sometimes found information provided on in kind benefits was incomplete or not sufficiently clear, which is hardly surprising as we focused on this one area while the ILO database addressed many other areas in addition to in kind benefits.

We began our analysis by extracting and summarizing from the ILO minimum wage legal database relevant aspects of national laws for each country regarding treatment and valuation of in kind benefits. We also noted links to relevant laws and acts for each country. We then investigated national laws in further detail by downloading and looking at these laws for countries where we felt that information in the ILO database was either incomplete or not sufficiently clear as regards in kind benefits. We also checked results at this point from our analysis of the ILO minimum wage database and our own further analysis of national laws against how in kind benefits were said to be treated in national laws according to ILO reports prepared for International Labor Conference sessions in 1992, 2003, and 2014 that were based in part on inquiries ILO sent to countries. The 2104 ILO report mentioned how in kind benefits were treated by 27 countries; the 2003 ILO report mentioned how in kind benefits were treated by 85 countries; and the 1992 ILO report mentioned how in kind were treated by 81 countries. We looked further into national laws when there was a discrepancy between what these ILO reports indicated and what was indicated in the ILO minimum wage legal database in order to resolve such discrepancies. Also, we relied on information in these ILO reports for the relatively few countries that were not included in the ILO legal database. All together, we looked in more detail at laws and regulations in 63 countries or 40% of the 162 countries included in Appendix A.

Based on this information (columns F and G in Appendix A), we summarized findings in tables 1-3 below using information on: whether in kind benefits are permitted as partial payment of wages (column B in Appendix A), maximum % of wage allowed (column C), method of calculation (column D), and limitations such as industries or occupations (column E).

We supplemented our analysis of national laws for 162 countries in section 5 with an analysis of laws in five states and the Federal Government of the United States in section 6. Detailed information from relevant laws and regulations of the United States is reproduced in Appendix B. We also did a brief analysis of selected collective bargaining agreements from six developing countries in section 7, drawn from the WageIndicator.org Global Collective Agreement Database.<sup>7</sup>

## **5. Laws governing in kind benefits as partial payment of wages around the world**

This section looks at how in kind benefits received by workers are treated as partial payment of wages in national law. This inquiry is based on an analysis of laws for 162 countries. Appendix A contains details for these 162 countries. Readers are referred to section 4 for a description of how this analysis was done. To assist discussion, results are summarized by continent in three tables. Table 1 indicates how in kind benefits are treated regarding whether they are allowed as partial payment of wages. Table 2 indicates the maximum percentage allowed for all in kind benefits as partial payment of wage in countries where there is a maximum. Table 3 indicates different types of valuation methods that countries have used.

We are particularly interested in the following issues:

- Whether employers are allowed to reduce the cash wage they pay when they provide in kind benefits.

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<sup>7</sup> <http://www.wageindicator.org/main/labour-laws/collective-bargaining-agreements>.

- Whether workers have to agree before in kind benefits can be considered as partial payment of wages.
- Whether deductions from wages are only allowed in certain industries, occupations, or circumstances; and whether deductions are only allowed for certain types of in kind benefits.
- How the monetary value of in kind benefits is determined.
- Whether a ceiling is placed on the maximum amount or percentage that can be deducted from wages for in kind benefits.

Before beginning discussion, it is important to note that despite considerable effort the following analysis faced certain difficulties. First for practical reasons, we relied to a large extent on the prior content analysis of national laws by the ILO as provided in its Minimum Wages Legal Database. This means that our analysis and conclusions rely to a significant extent on the quality of this ILO database and its content analysis and decisions. To mitigate this reliance, we looked further into laws and codes for 63 countries even though we found this ILO database was excellent (as shown by the limited number of instances when further in-depth investigation of national laws found different results). We looked further into national laws whenever information in the ILO database was unclear or whenever it indicated that in kind benefits are not allowed as partial payment of wages. We also looked further into national laws whenever ILO reports concerned with wages prepared by Committees of Experts for International Labor Conferences (1992, 2003 and 2014) indicated that in kind benefits in a country were treated differently than what was indicated in the ILO legal minimum wage database.<sup>8</sup> Second, when the ILO minimum wage legal database only indicates that in kind benefits are allowed as partial payment of wages in certain circumstances (e.g. when worker is transferred), this does not necessarily mean that deductions from pay for in kind benefits are not allowed in other circumstances (e.g. when worker agrees or CBA). Third, national laws in the ILO database sometimes refer to how in kind benefits are treated as partial payment of minimum wages and sometimes to how they are treated for wages in general, and this can make a difference. This

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<sup>8</sup> Note that discussions in these ILO reports about in kind benefits were based on inquiries sent by ILO to countries.

distinction is especially important for whether or not in kind benefits are allowed as partial payment of wages, because countries are likely to be more concerned with this issue for low paid workers earning a minimum wage. Israel provides a good example. The ILO minimum wage legal database indicates that deductions from pay for in kind benefits are not allowed in Israel. This is correct for minimum wage. However, deductions from pay for in in kind benefits are allowed in Isreal for food and drink for wages above a minimum wage when there is a written agreement, or CBA, or it is customary. Fourth, it is not always clear what is meant when the ILO database indicates for a country that the value of in kind benefits cannot be deducted from wages, because there is nothing to stop employers from providing in kind benefits as an addition to wages instead of as a deduction from wages. In Vietnam, for example, which does not allow in kind to be considered as partial payment of wages, a 2013 survey of 68 enterprises covering over 46,000 workers conducted by Vietnam General Confederation of Labor (VGCL) found that 62% of employees are provided lunch. In the end, despite limitations, we believe that the following analysis provides valuable insights and represents the most comprehensive and best review to date of how in kind benefits are treated in national law in a global context.

### ***5.1 Almost all countries allow in kind benefits as partial payment of wages***

Almost all countries allow partial payment of wages through non-monetary means such as in kind benefits. We found that only 10% of countries do not allow wages to be reduced by provision of in kind benefits (table 1). This restriction is much more common in Arab States and Asia (around 30%) than in other regions where in kind benefits are almost always allowed as partial payment of wages. As will become evident in discussion below, this 10% figure is a bit misleadingly, because most countries place restrictions on the types of in kind benefits that can be considered as partial payment of wages as well as in which industries, occupations or circumstances in kind benefits can be considered as partial payment of wages. In addition in a number of countries wages can be reduced for in kind benefits only when workers agree to this.

### ***5.2 In kind benefits as partial payment of wages are often limited to certain industries, occupations, or circumstances***

Although most countries that allow in kind benefits as partial payment of wages do not restrict the industries, occupations or circumstances in which they can be paid, a significant number of countries impose such restrictions. We found around 7% of countries limit the provision of in kind benefits, such as food and lodging, to employees who are transferred to a place far from their home or who are required to work in a remote place. This is much more prevalent in Africa and Arab States than elsewhere (e.g. Benin, Burkina Faso, Cameroon, Cote D'Ivoire, Egypt, Gabon, Libya, Niger, Somalia, Yemen and Saudi Arabia). Only one country in the Americas (Cuba) contains similar provisions. In addition, Colombia specifies that minimum wages for agricultural workers be determined taking into account their reduced cost of living given their employers' provision of lodging, food and fuel. We did not find laws applying to work in a remote area or to transferred workers for Europe or Asia.

We found around another 12% of countries restrict in kind benefits to industries and occupations where provision of in kind benefits is customary and desirable for workers such as for agriculture and domestics. This percentage is fairly similar in each region with the exception of Arab States where we did not find this restriction. This restriction is also found in ILO wage conventions. Examples of countries with this restriction include Gambia, Lesotho, Nigeria, Uganda, Zambia, Zimbabwe, Grenada, United States, India, Vanuatu, Belgium, and France. Some countries specify particular industries and professions in which in kind benefits may be provided. These are primarily domestics (e.g. El Salvador, Nicaragua, Serbia), mines and oil (e.g. Libya), and agriculture (e.g. Nicaragua). At the same time, some countries expressly prohibit in kind benefits as partial payment of wages in certain occupations or industries such as agriculture (Morocco) and domestics (Bolivia).

### ***5.3 Types of in kind benefits permitted as partial payment of wages are often limited***

Countries that permit in kind benefits as partial payment of wages often refer to particular forms of in kind benefits specifically in the law, although not many expressly limit in kind benefits to those categories. However, the fact that certain types of goods and services are often mentioned



by name in laws indicates that those are the most generally accepted forms of in kind benefits. Almost all the countries that expressly mention particular goods or services consider food and/or lodging to be acceptable forms of in kind benefits (e.g. Egypt, Comoros, Nigeria, Somalia, Colombia, Haiti, Peru, Sudan, Kuwait, Costa Rica, the Philippines, Pakistan, and Israel). In contrast, the Democratic Republic of Congo prohibits housing from constituting an in kind benefit. Clothing is also frequently mentioned, albeit not nearly as frequently as food and lodging (e.g. Angola, Sudan, Kuwait, Colombia, Costa Rica, Suriname, Papua New Guinea, and Kuwait). However, in many countries, the provision of work-related clothing cannot be counted as an in kind benefit (e.g. Zimbabwe, United States). Less often, transportation is specifically mentioned in the law (e.g. Egypt, Libya, Kuwait, Somalia, Sudan, Yemen, Guyana, and Pakistan) as is fuel and electricity (e.g. Brunei, Fiji, Sudan, Colombia, and Poland), medical care (e.g. Brunei, Papua New Guinea, Poland, and the Philippines) although it is excluded as an in kind benefit in the Democratic Republic of Congo and Cambodia, and education certificates (e.g. Afghanistan). Haiti expressly prohibits providing land to farm from being considered an in kind benefit, while Costa Rica specifically allows this.

To prevent potentially abusive employer practices, many countries mention that in kind benefits need to be for the personal use of the employee and his or her family as in ILO wages conventions (e.g. Angola, Botswana, Kenya, Uganda, Zimbabwe, Costa Rica, Guatemala, and Haiti) and not to be in the form of liquor or drugs, also as in ILO conventions (e.g. Kenya, Zambia, Zimbabwe, Swaziland, Guinea, Tanzania, Laos, and Israel). Haiti, Kuwait, Qatar and Bahrain specifically require that an employee not be required to buy goods from an employer-owned store and that, if such a store is the only store available, the employer sell at fair prices and/or not make a profit. India requires that when essential commodities are provided that they are sold at concession rates.

#### ***5.4 Employee agreement, generally in written form, is often required before in kind benefits can be considered as partial payment of wages***

At least 41% of countries in the world require that reduction of wages through provision of in kind benefits be acceptable only through agreement between the employer and employee or the

employee's collective bargaining unit. This is most likely to be required in Europe (70%) and least likely to be required in Arab States (10%) and Africa (28%). It is worth noting that more than half of the countries requiring agreement require a written agreement or CBA rather than employee agreement only (22% compared to 19%). Requiring employee consent through written agreement or a CBA is an important protection, because it is not clear what an employee's non-written agreement means in practice. For example as indicated in the next section concerned with American law, American courts have generally interpreted acceptance of employment is evidence of voluntary agreement to the terms and conditions of that employment by an employee. A non-written agreement does not memorialize the terms, value and conditions of in kind benefits, nor does it adequately inform the employee of those terms. Employees, especially ones who earn low wages, are not generally in a position to challenge their employer's provision of in kind benefits if that provision differs from their recollection of the terms to which they agreed.

### ***5.5 Some countries require in kind benefits to meet minimum standards***

Some countries, primarily in Africa, require food and housing to meet minimum standards, although this is also the case in some states in the United States. For example, Cameroon and Niger require lodging to correspond with an employee's family situation. Cameroon, Niger and Benin specify that the quality of lodging must be "sufficient and decent" or "adequate and decent." Egypt specifies that food and housing be "suitable," and Yemen requires housing and food to be "adequate." Comoros requires housing to be "hygienic." South Africa, Mali and New York State require housing to meet detailed specifications. For example, housing in Mali must have "durable structure; roof and exterior walls; windows for adequate ventilation and light; lit at night as customary in region; equipped kitchen; habitable condition; 14 cubic meters air space; hygienic toilet and 20 liters of water per day per person with potable drinking water." Agricultural housing in South Africa must have "durable waterproof roof; glass windows that open; electricity if available on farm; safe water; flush or pit toilet; at least 30 square meters of space."

With respect to food provided as an in kind benefit, Comoros sets details on types and weights of food. Libya requires that food consist of three meals a day in order to qualify for in kind benefit status. Mali and some states in the United States (e.g. Connecticut and New York) require that meals include food from three or four different food groups.

**Table 1. Summary of how in kind benefits are treated as partial payment of wages, 162 countries**

<b>In kind as partial payment of wages</b>	<b>Africa (N=50)</b>	<b>Arab States (N=10)</b>	<b>Americas (N=34)</b>	<b>Asia (N=28)</b>	<b>Europe (N=40)</b>	<b>Total (N=162)</b>
No (no apparent qualifiers)	8%	30%	3%	29%	3%	10%
Yes (but only for the few workers in special situations: transfer of workplace or work in remote area)	18%	20%	3%	0%	0%	7%
Yes (but only when customary in an occupation or industry such as agriculture, domestic, and restaurant) <sup>a, b</sup>	16%	0%	15%	11%	10%	12%
Yes (only when employee agrees) <sup>e</sup>	18%	0%	15%	21%	25%	19%
Yes (only when written agreement or CBA)	10%	10%	18%	21%	45%	22%
Yes (but cannot reduce cash wage to less than minimum wage)	4%	10%	18%	7%	20%	12%
Yes (no apparent qualifiers) <sup>c, d</sup>	34%	30%	32%	14%	15%	25%

Notes: Column totals can sum to more than 100% because countries can be in more than one category (e.g. total column sums to 109%). <sup>a</sup> Four countries which allow in kind as partial payment of wages in government decrees or regulations were placed in this category when decrees and regulations were generally concerned with industries and occupations where in kind benefits are customary (Benin, Mali, Myanmar, and Netherlands). <sup>b</sup> Four countries that allow in kind as partial payment of wages only in certain occupations or industries without indicating if this is customary were included in this category (El Salvador, domestics; Honduras, rural; Nicaragua, agriculture and domestics; Serbia, domestics). <sup>c</sup> Two countries that allowed in kind as partial payment of wages but excluded a specific industry or occupation were included in this category (Morocco, agriculture; Bolivia, domestics). <sup>d</sup> Note that three countries allow deductions for in kind for only housing. They were included in yes no apparent qualifiers (Bahrein, United Kingdom) and yes employee agreement required (Bangladesh.). <sup>e</sup> When agreement and written agreement/CBA were both indicated for a country, this country was included in the “when employee agrees” category (Djibouti, Eritrea, Ethiopia, Zambia, Romania),

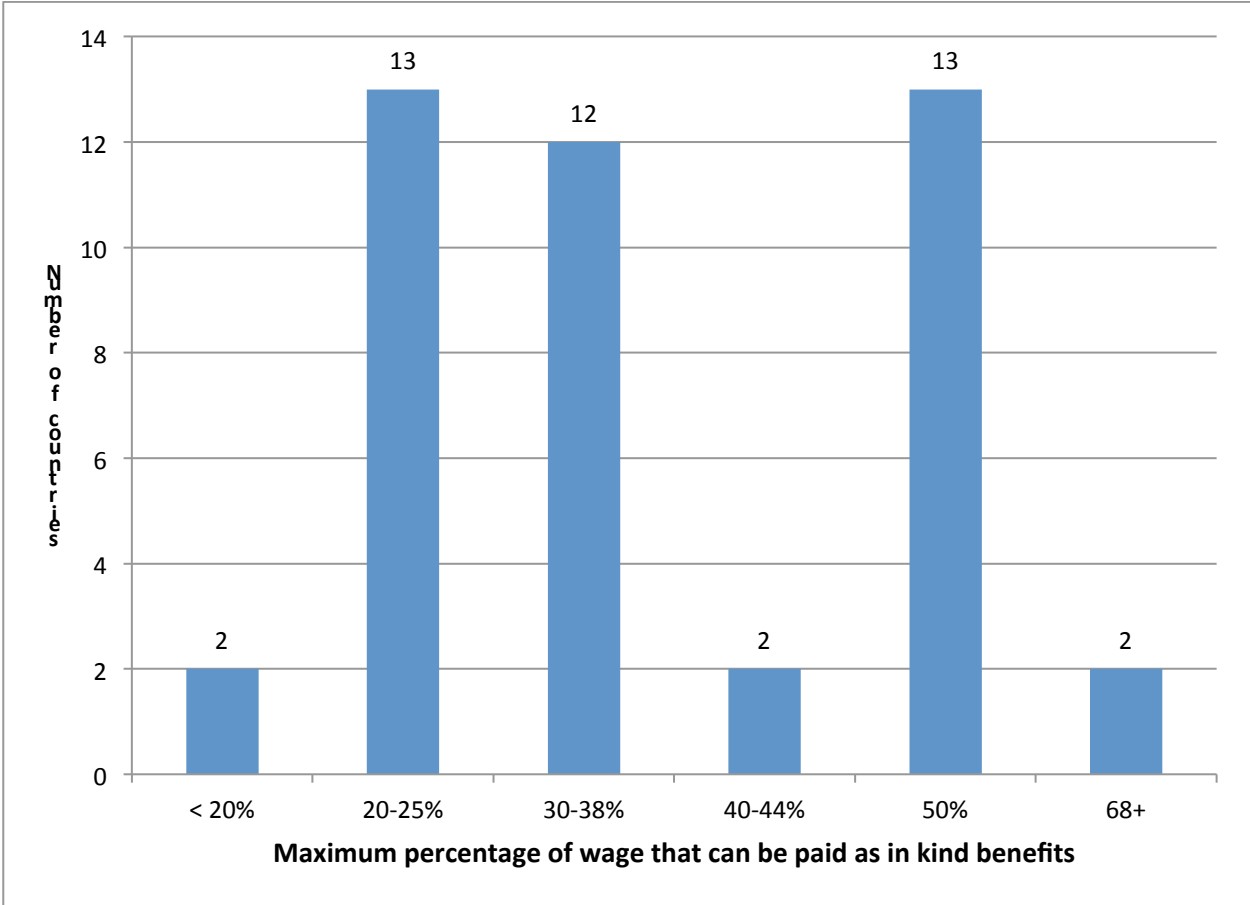
Sources: Appendix A.

### ***5.6 Many countries set a maximum amount or percentage for in kind benefits as partial payment of wages***

Many countries throughout the world set a maximum value for in kind benefits that can be counted towards wages, presumably to prevent abuse and enable workers to have sufficient agency over how they spend their earnings. We identified 44 countries. See table 2 and figure 1. The average (mean) percentage for all countries is 35.5% with a median of 30%. Percentage ranges from a low of 15% (Fiji, Greece) and 20% (Eritrea, South Africa, Argentina, Canada (Manitoba), Cambodia, New Zealand, and Russia) to a high of 68% (Tanzania, for domestics) and 70% (Brazil). Common percentages are 20%, 25%, 30%, and 50%.

In addition, statutes in at least ten countries (e.g. Burkina Faso, Comoros, Mali, Cameroon, Canada (Manitoba), United States (California, Connecticut, New York), Pakistan, Seychelles, Netherlands, United Kingdom) refer to specific values allowed for different in kind benefits. This also limits the maximum amount or percentage for in kind benefits.

**Figure 1. Maximum percentage allowed for in kind benefits as partial payment of wages, 44 countries**



**Table 2. Maximum percentage allowed for in-kind benefits as partial payment of wage (countries with maximum percentage)**

<b>Country</b>	<b>Maximum % allowed</b>	<b>Notes</b>
<b>Africa</b>		
Angola	50%	Cannot exceed market value. Food, clothing & accommodation mentioned.
Botswana	40%	
Cape Verde <sup>a</sup>	50%	
Chad	38% (see comment)	2 MW hours for daily rations & 1 MW hour for meal. Implies 3/8 of MW for one meal & rations for 8 hour workday.
Equatorial Guinea	50%	
Eritrea	20%	
Guinea Bissau	50%	
Mali	38% (see comment)	2.5 MW hours for food & 0.5 MW hour for lodging. Implies 3/8 of MW for 8 hour workday.
Mozambique	25%	
Sao Tome and Principe	50%	
Senegal	38% (see comment)	2 MW hours for daily rations & 1 MW hour per meal. Implies 3/8 for one meal & rations for 8 hour workday.
South Africa	20% (agriculture)	10% for food; 10% for accommodation. For agricultural workers.
Tanzania	68% (domestics)	For domestic workers
<i>Average (N=13)</i>	<i>41% (40% median)</i>	
<b>Arab States</b>		
Bahrein	25%	For housing. Only housing allowed.
<i>Average (N=1)</i>	<i>25%</i>	
<b>Americas</b>		
Argentina	20%	
Brazil	70% (of MW)	
Canada (Manitoba)	20% (see comment)	Meal valued at \$1; lodging valued at \$7 per week. 20% assumes lodging & 1 meal pd. MW was C\$10 then.
Chile <sup>a</sup>	50%	
Colombia	30% (of MW)	Food, clothing and lodging mentioned for all workers. Fuel, crops also mentioned for agricultural workers.
Costa Rica	33%	Food, clothing and housing mentioned
Dominican Republic <sup>a</sup>	50%	
Ecuador <sup>a</sup>	25%	
Guatemala	30%	Cannot exceed cost to employer. Food mentioned.
Honduras	30%	Cannot exceed cost to employer. Food and housing mentioned.

Country	Maximum % allowed	Notes
Mexico <sup>b</sup>	50% (domestics)	
Nicaragua <sup>a</sup>	50%	
Panama <sup>a</sup>	20%	
Paraguay	30%	Also 60% for domestics
<i>Average (N=14)</i>	36% (30% median)	
<b>Asia</b>		
Cambodia	20% (see comment)	Varies with distance from MW: 0% if MW or less; 20% for 1-3 MW; 30% for 3-10 MW; 50% for >10 MW. Health care not allowed.
Fiji	15%	5% for housing; 5% for food; 15% for board, fuel, light and accommodation.
Indonesia	25%	
New Zealand	20%	15% board; 5% lodging. Cannot be more than cost to employer.
Papua New Guinea	50%	
<i>Average (N=5)</i>	26% (20% median)	
<b>Europe</b>		
Azerbaijan <sup>a</sup>	50%	
Belgium <sup>a</sup>	40%	
Greece <sup>b</sup>	10-15%	
Hungary <sup>a</sup>	20%	
Netherlands	30% (domestics)	
Portugal	50%	Cannot be more than market value
Romania <sup>a</sup>	30%	
Serbia	50% (domestics)	
Spain	30%	
Russian Federation	20%	
Ukraine	30%	
<i>Average (N=11)</i>	33% (30% median)	
<b>WORLD (N=44)</b>	<b>35.5% mean</b> <sup>*</sup> <b>30.0% median</b> <sup>*</sup>	Only 2 countries <20% & 2 countries >50%

Notes: MW indicates minimum wage. < indicates less than. > indicates more than.

Note that 16 countries (approximately 10% of countries for which we have information) do not allow in kind benefits to reduce wage received in cash to below MW).

<sup>\*</sup>In addition, specific monetary values for in kind benefits are indicated in statutes in some countries (e.g. Burkina Faso, Comoros, Mali, Cameroon, Canada (Manitoba), United States (California, Connecticut, New York), Pakistan, Seychelles, Netherlands, United Kingdom). Setting specific amounts for different in kind benefits limits the total value of in kind benefits. For example in Connecticut, full meals are valued at \$0.85 and light meals are valued at \$0.55; in California, breakfast is valued \$3.26, lunch at \$4.47, and dinner at \$6.01.

Value of in kind benefits cannot exceed its cost to employer in some countries (e.g. Guatemala, Honduras, Maryland in United States, New Zealand, and Seychelles). Value of in kind cannot exceed market price in some countries (e.g. Afghanistan, Portugal, Angola, California in USA, Fiji).

Sources: Except when indicated by a or b superscript, based on information for 162 countries (in Appendix B) which was based on ILO Travail's minimum wages online legal database and further in-depth look at national laws for around 1/3 of these countries. <sup>a</sup> ILO (2003). Protection of Wages. Report for International Labor Conference 91st



Session. <sup>b</sup> ILO (1992). Minimum wages: Wage fixing machinery, application and supervision. Report III (Part 4B) for International Labor Conference 79th Session.

### ***5.7 Many countries do not allow valuation of in kind benefits to reduce cash wage paid to be less than minimum wage***

Many countries that permit in kind benefits as partial payment of wages do not allow in kind benefits to reduce total salary below minimum wage. These countries are primarily in the Americas (e.g. Argentina, Chile, Panama, Venezuela, Canada (Manitoba), Mexico) and Europe (e.g. Armenia, Czech Republic, Israel, Malta, Romania, San Marino, Slovakia, Spain) although there are some countries in Africa and Asia (e.g. Iran, Mauritius, Seychelles, Tunisia, Cambodia).

### ***5.8 Variety of methods used to value in kind benefits as partial payment of wages***

Table 3 indicates the different methods used to value in kind benefits in national laws and regulations that we were able to identify. We would undoubtedly have found more examples in national law if we had looked further. What we found we believe is indicative of the variety of valuation methods that are used around the world. The most common is the use of the principle of fair and reasonable value or similar words, which is of course the terminology used in ILO wages conventions (e.g. Botswana, Gambia, Guinea, Swaziland, Tanzania, Uganda, Zimbabwe, Belize, Granada, United States, Iran, Japan, Philippines, Vanuatu, Cyprus).

More countries embody this general principal in more specific requirements. At least ten countries set specific monetary amounts for the value of in kind benefits (e.g. Burkina Faso, Comoros, Mali, Cameroon, Canada (Manitoba), United States (California, Connecticut, New York), Pakistan, Seychelles, Netherlands, United Kingdom). Interestingly, this approach is more common in high income countries.

At least ten countries use market rates (Angola, Mozambique, Afghanistan, Fiji, India, Czech Republic, Israel, Portugal, Slovakia, United States (Maryland)). At least five countries require the value of in kind benefits to be set at or below the cost to the employer, so that employers do not profit from providing in kind benefits (e.g. Seychelles, Guatemala, Honduras, New Zealand,

Ukraine). Colombia requires unspecified experts to value in kind benefits. Luxembourg uses the value indicated by the employer. Ecuador uses values set by a judge when parties do not agree. Three African countries express monetary amounts for meals, food rations and lodging in terms of the hourly minimum wage rate (Chad, Mali, Senegal). For example in Chad and Senegal, one meal is set at one hour of the minimum wage. Daily food rations are set at one hour of minimum wage in Chad and twice that in Senegal. In Mali, food rations are valued at 2.5 hours of minimum wage and accommodation at 1/2 an hour of minimum wage. In Cambodia, the amount allowed for in kind benefits increases along with a worker's wage. It is 0% at or below the minimum wage, 20% for 1-3 times minimum wage, 30% for 3-10 times minimum wage, and 50% for more than 10 times minimum wage. In addition to these methods to value in kind benefits, many countries limit the value of in kind benefits to maximum amounts or percentage as discussed in previous subsection.

**Table 3. Valuation methods used in national laws and regulations to determine monetary value of in kind benefits**

<b>Valuation method</b>	<b>Number of countries identified</b>	<b>Countries</b>
Amounts set in law	10	Burkina Faso, Comoros, Mali, Cameroon, Canada (Manitoba), United States (California, Connecticut, New York), Pakistan, Seychelles, Netherlands, United Kingdom
At or below market rate	10	Angola, Mozambique, Afghanistan, Fiji, India, Czech Republic, Portugal, Israel, Slovakia, United States (Maryland)
At or below cost to employer	5	Seychelles, Guatemala, Honduras, New Zealand, Ukraine
Amount equal to x hours of minimum wage rate	3	Chad, Mali, Senegal
Amount increases with wage level	1	Cambodia
As indicated by employer	1	Luxembourg
Set by judge when parties do not agree	1	Ecuador
Set by experts	1	Colombia
Fair and reasonable	15	Botswana, Gambia, Guinea, Swaziland, Tanzania,

value		Uganda, Zimbabwe, Belize, Granada, United States, Iran, Japan, Philippines, Vanuatu, Cyprus
ALSO		
Minimum standard required before in kind can be assigned value	11	Benin, Burkina Faso, Cameroon, Comoros, Egypt, Mali, Niger, South Africa, United States (Connecticut, New York), Yemen, Libya
Maximum amount or %	44	See table 2 (above)

Sources: Appendix A.

## 6. Laws in five states and Federal Government of the United States and in kind benefits

The United States is often thought of as a crucible for law, because each of its 50 states have their own sets of laws. These are in addition to federal law. While state laws can go beyond the protections provided by federal law, federal law provides minimum levels and standards (e.g. when federal minimum wage is \$7.25 per hour, state minimum wages can be greater than \$7.25 per hour but they cannot be lower than \$7.25 per hour). This system allows, and many would say encourages, variation and experimentation by states. With this background in mind, this section looks at how five states and the Federal Government treat and value in kind as partial payment of wages.

Table 4 provides a summary. Appendix B provides details. Before beginning, it is important to note that interesting information on in kind benefits is often found not just in the laws themselves, but also in regulations and documents of agencies tasked with implementing wages laws.

### *6.1 Agreement is required and generally written authorization is required*

There is a consensus that employee agreement is required before in kind benefits can be considered as partial payment of wages. All five states and the Federal Government require workers to agree. Written authorization is required in four of the five states included in table 4 (California, Maryland, New York and Texas). Connecticut requires employees to “agree at time of hiring,” and federal law requires “voluntary and uncoerced acceptance of benefits” by employees. Federal law is in practice, however, weak, as “courts have [generally] held that when

an employee accepts a job voluntarily and without coercion, such acceptance automatically includes the in kind benefits the employer may bestow upon the employed.”<sup>9</sup> Therefore, it is not surprising that state law is stronger than federal law, and interesting that Texas requires written authorization of workers despite deferring to the widely acknowledged low level of the federal minimum wage rate. The need for worker agreement in the United States strengthens further the finding in section 5 that worker agreement is a common requirement around the world before in kind benefits are allowed to be considered as partial payment of wages.

### ***6.2 Restricted number of in kind benefits generally allowed***

Lodging and meals are mentioned as allowable items at federal level as well as in all five states. Federal law, however, does allow consideration of other benefits such as general merchandise (including clothing, household effects), fuel, electricity, water, gas, and transportation between home and work. It is worth noting that federal law refers to allowing in kind benefits that are “customarily furnished,” which is similar to the ILO wages conventions which use “customary.”

### ***6.3 Variety of valuation methods used***

Three states (California, Connecticut and New York) specify dollar amounts for food and lodging as partial payment of wages. Amounts allowed vary greatly by state, possibly because of the different frequencies with which any particular state's statutes have been updated to reflect inflation. For example, dinner is valued at \$0.85 in Connecticut, \$3.00 (and \$1.70 for agricultural workers) in New York, and \$6.01 in California. Lodging in an unshared/private room is valued at \$4 per week in Connecticut, \$3.70 per week (or \$7 per week for apartment with utilities) in New York, and \$42.33 per week in California.

Two states (Maryland and Texas) and Federal Government use “reasonable cost to the employer” to value in kind benefits. What this means is elaborated on by the Federal Government. “‘Reasonable cost’ to the employer of furnishing the employee with board,

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<sup>9</sup> Walter M Leurs, (1998). Workfare wages under the Fair Labor Standards Act. Fordham Labor Review. Vol 67, Issue 1, Article 5.

lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5.5 percent) for interest on the depreciated amount of capital invested by the employer. ... The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term 'good accounting practices' does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term 'depreciation' includes obsolescence.”

New York and the Federal Government add the stipulation that the value of in kind benefits indicated in law or regulation as discussed above (specific amounts for New York and “reasonable cost” for Federal Government) cannot exceed the cost of in kind benefits if they were purchased. New York refers to “prevailing market rate,” and the Federal Government refers to “the fair rental value or the fair price of the commodities or facilities offered for sale.” According to the Federal Government, when “the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost”.

#### ***6.4 Minimum standards required for food and housing in Connecticut and New York***

Employers in Connecticut and New York are not allowed to reduce wages when they provide in kind benefits unless these in kind benefits meet minimum standards. Full meals in Connecticut must include food from four food groups, and light meals must include food from three food groups (see note <sup>a</sup> to table 4). Meals in New York “must have adequate portions of a variety of wholesome, nutritious foods, and include food from three food groups” (see note <sup>b</sup> to table 4). Lodging in Connecticut must “conform to reasonable specifications with respect to size, privacy, sanitation, heat, light and ventilation.” Lodging in New York “must meet generally accepted standards for protection against fire, and all structural, sanitation and similar standards in State or local laws, codes, regulations and ordinances.”

***6.5 Transparency is encouraged as employers are required to keep records and inform workers regarding how much is deducted from their wage for in kind benefits***

Employers in New York, Texas, California, Connecticut and Maryland are required to keep records of their costs for in kind benefits and to provide workers with statements of how much they deducted for in kind benefits. This transparency provides workers with an opportunity to understand and challenge deductions that they feel are unfair.

**Table 4. How in kind benefits are treated as partial payment of wages in labor laws in five states and Federal Government of the United States**

State	Employee agreement needed?	Valuation method	Items allowed	Comments
California	Written authorization	Amounts allowed specified (\$3.26 breakfast; \$4.47 lunch; \$6.01 dinner; \$42.33 per week for unshared room). Amounts adjusted upward by “same percentage as the increase in the minimum wage”.	Room and food. Uniforms are <u>not</u> allowed as in kind benefit; employer must pay cost of uniforms.	Employers must keep records of total wages paid to employee, including in kind benefits and provide to employee upon request.  California Labor Code Sec 224.  Official Notice. California Minimum Wage MW-14 Industrial Wage Commission.
Connecticut	Must agree at time of hiring	Amounts allowed specified in regulations. Clearly not updated regularly as very low (\$0.85 for full meal, \$0.45 for light meal, \$2.55 per day for all meals; and \$4 per week for private room)	Room and food	For deductions to be allowed, full meal must include 4 food groups and light meal must include 3 food groups (see note <sup>a</sup> ). Lodging must “conform to reasonable specifications with respect to size, privacy, sanitation, heat, light and ventilation.” Employers must keep records of, among other things, deductions made from wages for 3 years.  Conn. Gen. Stat. Sec. 31-60; Conn. Agencies Regs. Sec. 31-60-3, 31-60-12.
Maryland	Written authorization	Reasonable cost to the employer	Room and board	“Employer is required to keep records that show the cost to the employer”  Md.Code. Ann., Lab. & Empl. § 3-503

State	Employee agreement needed?	Valuation method	Items allowed	Comments
New York	Written authorization or CBA	<p>Amounts allowed specified in regulations (\$3.00 per meal; \$3.70 per day for lodging). House/ apartment <u>and</u> utilities, lesser of prevailing market rates or \$7.00 per day.</p> <p>For farm workers, payments in kind acceptable to the employee may be considered as a part of the minimum wage, but shall be valued at not more than the farm market value at the time such payments were provided.</p> <p>Amounts allowed specified in regulations (\$1.70 per meal; \$12.65 per week for lodging). If employer provides house/ apartment and utilities, can deduct lesser of prevailing market rates or \$8.00 per day. Deductions for lodging not permitted at all for migrant farm workers.</p>	Room and board; uniforms expressly prohibited as in kind benefit	<p>Employer required to provide employee with statement of payments and any deductions claimed. For deductions for meals, a meal must have adequate portions of a variety of wholesome, nutritious foods, and shall include food from three food groups (see note <sup>b</sup>). Lodging must meet “generally accepted standards for protection against fire, and all structural, sanitation and similar standards in State or local laws, codes, regulations and ordinances.”</p> <p>12 NYCRR 142</p> <p>12 NYCRR 190</p>



State	Employee agreement needed?	Valuation method	Items allowed	Comments
Texas	Written authorization	Reasonable cost to employer	Meals and lodging customarily furnished	Costs of meals and lodging required to be separately stated in earnings statement.  Texas Labor Code § 61.016, 62.053
Federal	Voluntary and uncoerced acceptance of benefit	Reasonable cost to employer but not for fair value (defined in note <sup>c</sup> ); Secretary of Labor can calculate fair value for certain classes of employees based on average employer cost or average value to employee.	Customarily furnished, room, board & general merchandise (including clothing, household effects), fuel, electricity, water, gas, transportation between home and work)	Item must be for benefit of employee, not employer (therefore, uniforms are not deductible in kind benefit)  29 U.S.C. 203(m)  29 C.F.R. 531.30  Courts have generally interpreted acceptance to include when worker agrees to be employed. <sup>d</sup>

Notes: <sup>a</sup> Possible food groups are: (1) fruit juice or soup; (2) fruit or vegetables; (3) bread, cereal or potatoes; (4) eggs, meat, fish (or a recognized substitute); (5) beverage; (6) dessert. Full meals must include 4 food groups. Light meals must include 3 of food groups excluding (2) fruit or vegetables. <sup>b</sup> Possible food groups are: (1) fruits or vegetables; (2) cereals, bread or potatoes; (3) eggs, meat, fish or poultry; and (4) milk, tea or coffee. For breakfast, group (3) may be omitted if both cereal and bread are offered in group (2). <sup>c</sup> “The “reasonable cost” to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5.5 percent) for interest on the depreciated amount of capital invested by the employer: Provided, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term “good accounting practices” does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term “depreciation” includes obsolescence.” 29 Code of Federal Regulations 531.3. <sup>d</sup> Walter M. Luers. 1998. Workfare wages under the Fair Labor Standards Act, Fordham Law Review, Vol 67, Issue 1, Article 5).

Sources: Last column and notes.

## **7. Collective bargaining agreements**

This section contains a brief analysis of how in kind benefits are treated in collective bargaining agreements from six countries (Cambodia, Columbia, Ethiopia, Rwanda, South Africa, and Uganda) drawn from the WageIndicator.org Global Collective Agreement Database. Table 5 indicates in kind benefits and cash allowances included in seven CBAs from these six developing countries. CBAs were selected in an ad hoc manner; many more CBAs without relevant information were examined. It is worth noting that the database used has serious limitations as there are no CBAs for several countries in the database; CBAs are only in local language for several countries in the database; and CBAs are usually for specific companies and worker groups/unions. Despite these limitations, understanding how CBAs treat in kind benefits is important, because the legal review of national laws in section 5 found that many countries only allow in kind benefits to be considered as part payment of wages when there is a CBA or written agreement.

### ***7.1 CBAs are specific about which in kind benefits are to be provided without indicating their value***

The CBAs reviewed here indicate which in kind benefits are to be provided to workers. These CBAs are not generally very informative as regards how decisions were made about which in kind benefits to include, what the monetary value of in kind benefits are to workers, or how in kind benefits were valued as partial payment of wages. In other words, CBAs do not indicate how choices and tradeoffs were made (and, therefore, how in kind benefits were valued).

### ***7.2 CBAs are often negotiated by a weak trade union or worker group***

CBAs from Cambodia and Rwanda show that existence of a CBA between employees and employers does not necessarily mean that in kind benefits are treated in a reasonable manner as far as worker are concerned. The Cambodia CBA indicates that “bonus, end of year bonus and the Memorial will be decided by the employer depending on hotel business each year.” The Rwanda CBA indicates that “various allowances and bonuses to be granted to employees are proposed by the General Manager and approved by the Board of Directors.” These types of

provisions leave the determination of such bonuses and allowances entirely in the hands of the employer. The fact of the matter is that some trade unions in developing countries are weak, especially company-specific unions, and as a result, there is often unequal bargaining power between employees and their employer.

### ***7.3 Transport and meals are common in kind benefits***

Transport and meals are the most common benefits provided in the CBAs reviewed. Transport was included in all 6 countries, and meals in 4 of the 6 countries. These benefits are usually provided in kind, although sometimes there are cash allowances instead. It is interesting that inclusion of transport in CBAs is so common, because it is not mentioned in national laws nearly as frequently as food and lodging.

### ***7.4 Range of in kind benefits and cash allowances are included in CBAs reviewed***

A range of in kind benefits and cash allowances are included in the CBAs reviewed. Medical care or medical insurance is mentioned in 3 of the 7 CBAs reviewed. Also mentioned is: child care facilities, recreational facilities, cash allowances for births and deaths, 13<sup>th</sup> month cash payment, children's education cash allowance, and warm clothing cash allowance. Housing was not mentioned in the CBAs reviewed, but it is well known that this is a common in kind benefit in some industries and countries.

### ***7.5 Quality standard for meals set in Ethiopia CBA***

The Ethiopia CBA has an interesting clause that makes the employer responsible for ensuring that "food is provided in sufficient quality and quantity" with trade unions expected to "hold consultations on quality and quantity of food, and submit suggestions for improvement."

**Table 5. In kind benefits and cash allowances in selected CBAs from 6 countries**

<b>Country and CBA</b>	<b>Benefit/allowance</b>	<b>Comments</b>
<b>Ethiopia</b>		
CBA between: Sheraton Addis Hotel & Basic Trade Union of Workers of the Sheraton Addis Hotel, 2011	Transport	For night shift workers
	Medical service and insurance	Medical insurance with 10% co-pay
	Food and dining place	“Ensure dining place has sufficient staff and food provided in sufficient quality and quantity. The trade unions shall hold consultations on quality and quantity of food and shall submit suggestions for improvement.”
<b>Cambodia</b>		
CBA between: Ownership of Hotel Cambodiana & Employers Union and Management, 2011	Bonuses	"Will be decided by the employer depending on result of hotel business each year."
CBA between: International Airport Independence Employees Union Siem Rep Airport Cambodia Tourist Industry Worker Trade Union & Cambodia Airport Management Services, 2011	Transport	“Two way transport at designated routes at set pick-up and drop-off points.”
	Meal allowance	“Purpose of meal allowance is not to pay for the meal at work but to cover the difference between cost of a meal at home and at the workplace.”
	13th month	Paid every 6 months
<b>Colombia</b>		
CBA between: Filmtex S.A.S. & Workers’ Union of Filmtex S.A.S. SINTRA Filmtex S.A.S and National Union of Workers in the Plastics Industry and its Derivative SINTRA Plastic, 2012	Transport	According to law, transport allowance must be provided when salary is less than four times minimum wage
	Allowance for food	Allowance for food if salary is less than three times minimum wage
	Allowance for children's school	Pre-primary to college
	Various allowances	Birth of child, marriage, funeral services, eyeglasses
	Aid to union for culture and sport	

Country and CBA	Benefit/allowance	Comments
<b>Rwanda</b>		
CBA between: Trade Unions COTRAF, CESTRAR & SORWATHE Ltd., 2012	Child care	Employer provided and subsidized
	Transport to work	Fixed cash allowance
	Various allowances and bonuses	"Various allowances and bonuses to be granted to employees are proposed by the General Manager and approved by the Board of Directors."
<b>South Africa</b>		
CBA between: CWAWU and CEPPWAWU & Kimberly Clark SA., 2013	Transport allowance	R200 per month to employees using their own transport. 50% of transport cost for employees using public transport
	Medical aid	Employee contributes 50%
	No housing allowance	Housing allowance specifically excluded
<b>Uganda</b>		
CBA between: Fresh Handling LTD. and the Uganda Horticultural and Allied Workers Union, 2011	Transport to work	
	Meals	Lunch or supper and tea/coffee break
	Warm clothing allowance	
	Recreational activity and sports	
	Child care facilities	Subsidized
	Death allowance	For worker, spouse, child, parent
	Birth delivery allowance	
	Medical clinic	Medical bills paid if company refers worker to hospital

Source: As noted in column 1 from WageIndicator.org Global Collective Agreement Database.

## 8. Summary and conclusions

This paper has been concerned with how in kind benefits received by workers are treated in national laws around the world – in particular extent to which in kind benefits are considered as partial payment of wages, and how their monetary value is determined for this purpose. This review was based to a large extent on information on national laws for 158 countries from an ILO minimum wage legal database. These data were supplemented by information on national laws for: (i) around 100 countries that were mentioned in three ILO reports prepared by Committees of Experts for discussions in International Labor Conference Sessions concerned

with adoption of new ILO wages conventions, and (ii) further investigation of relevant laws for 63 countries where the ILO database was incomplete or not unclear to us or where there was a discrepancy between information in the ILO database and what was indicated in an ILO Committee of Experts report. Results of this effort are discussed in this paper with details for each country provided in an appendix. This global analysis of national laws was further supplemented by analyses of how in kind benefits are treated in: (i) numerous ILO Conventions and Recommendations and discussions on in kind benefits in three ILO Committee of Experts reports; (ii) laws and regulations of five states and the Federal Government of the United States; and (iii) collective bargaining agreements from six developing countries.

There are some limitations to our global analysis of in kind benefits. The analysis relied substantially on an ILO legal database concerned with minimum wages. Although this is an excellent database, it refers to a large extent to minimum wages (although labor laws and codes that apply to all wages are used for many countries) and does not always include all relevant provisions as regards in kind benefits as partial payment of wages. We tried to mitigate these limitations by looking further at laws in 63 countries and used information for over 100 countries indicated in three ILO reports that were based on inquiries ILO sent to countries. Despite limitations of this information, we believe that this paper provides valuable insights on how in kind benefits as partial payment of wages are treated around the world – and it is we believe the most comprehensive and detailed global analysis of in kind benefits as partial payment of living wages to date.

Reports prepared by ILO Committees of Experts leading to adoption of ILO wages Conventions indicate that using in kind benefits as partial payment of wages has been controversial for well over half a century, because of the historical context of frequent abuse by employers sometimes bordering on slavery. These reports also indicate that some Committees of Experts and some stakeholders have expressed over the years a wish for in kind benefits to be prohibited as partial payment of wages (especially minimum wages). This point of view was never realized in ILO Conventions, because the reality in many countries is that in kind benefits are often important benefits for workers and important costs to employers and in kind benefits are an acceptable

form of remuneration in many countries. On the other hand, this concern about possible abuse, is reflected in a number of ILO Conventions and Recommendations. In addition to the three main criteria before allowing in kind benefits as partial payment of wages included in ILO Convention 95 that are repeated in other ILO Conventions and Recommendations - allow in industries and occupations where it is customary or desirable, and when it is for the personal use and benefit of workers, and when the monetary value assigned to it is fair and reasonable - there are other important qualifications included in other ILO Conventions and Recommendations such as setting a limit on the total monetary value allowed for in kind benefits; requiring minimum standards for in kind benefits be met; indicating appropriate methods to calculate the monetary value of in kind benefits; and requiring that employers inform workers of deductions from pay for in kind benefits.

Analysis of national laws from around the world found that in kind benefits can be considered partial payment of wages in almost all countries (around 90%). Not allowing in kind benefits as partial payment of wages is much more likely in Asia and in Arab States (around 30% of countries) than in other regions where this is almost always allowed. However allowing in kind benefits as partial payment of wages is qualified in most countries. We found roughly 7% of countries (mostly in Africa and Arab States) allow this only when workers are transferred away from their home or when they work in a remote area; and around 13% of countries allow this only in industries and occupations where it is customary. We found that many countries (around 41%) require agreement from workers (with around half of these countries requiring written agreement or a CBA). The need for worker agreement is especially common in Europe (70% of countries).

We did not find any consensus on how to determine the monetary value of in kind benefits as partial payment of wages, although the phrase “fair and reasonable” (also included in ILO Conventions) is fairly common. Countries use a variety of methods such as specifying maximum amounts or percentages allowed, using market rates, and using cost to employer. It is common for countries to set a limit on the amount that can be deducted from wages for in kind benefits in order to prevent abuse and enable workers to have sufficient agency over how they spend their

earnings. We identified 51 countries that set a maximum percentage of wages or a specific maximum amount that can be deducted for in kind benefits. The average percentage among these countries was around 30%.

Analysis of laws and regulations for five states and the Federal Government of the United States revealed a relatively high level of protection for workers against abuse as regards in kind benefits compared to many developing countries. All five states investigated and the Federal Government require voluntary agreement by workers, and 4 of the 5 states investigated require written agreement before in kind benefits can be considered as partial payment of wages. Three of the 5 states set maximum amounts that can be deducted from pay for meals and lodging while the Federal Government and the other two states use “reasonable cost to employer” and “fair value” with the Federal Government indicating in detail how reasonable cost to employers of housing should be calculated. Furthermore, two of these states set minimum standards for meals and housing. All five states and the Federal Government require workers to be informed in detail about deductions from pay for in kind benefits.

The general conclusion of this paper is that in kind benefits are an accepted form of wage payment around the world - and are a fact of life in almost all countries. At the same time, almost all countries set conditions and restrictions on the use of in kind benefits as partial payment of wages in order to reduce possible abuse. For example, it is common for countries to allow in kind benefits as partial payment of wages only when: (i) an in kind benefit is customary, such as for certain occupations, industries and locations; (ii) an in kind benefit is on a restricted list of acceptable benefits, such food, housing, clothing and transport; (iii) there is a written agreement with workers or a CBA; (iii) amount deducted from wages for in kind benefits is limited to a specified amount or a maximum percentage; and (iv) minimum standards of decency are specified and need to be met. In the end, the general conclusion of this global review of laws concerned with in kind benefits is that while it is acceptable to consider in kind benefits as partial payment of wages, caution and a conservative approach is needed when allowing and valuing in kind benefits as partial payment of wages.



## Appendix A. Treatment of in kind benefits as partial payment of wages in national law around the world

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
<b>AFRICA</b>						
Algeria	No (but some confusion in another law)				Requires both expression of wage and payment of wage to be done monetarily. However, some confusion as Industrial Labor Relations Act 1994 amendment indicates that MW can include allowances and bonuses of all kind.	Labour Relations Act §85.
Angola	Yes	50%	Not more than market value in region. Food, clothing & accommodation mentioned.		Permits in kind benefits such as food, clothing and accommodation. However, in kind cannot exceed 50% of the total wage paid. Must be for employees' personal needs.	General Labour Act §173(1)(2)
Benin	Yes (when transferred; or agreement, regulation, or convention)		Housing must be adequate & decent. Food must be regular.		Permits salary to be calculated in cash or in kind; requires it to be established by agreement, regulations or conventions. For work in a place other than where the worker usually lives. Employer required to provide housing/ food to displaced workers. Housing must be adequate and decent and food supply must be "regular."	Labour Code §207

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Botswana	Yes (when agrees)	40%	Fair and reasonable		Employee can agree to accept in kind benefits, provided they: (1) are not in the form of intoxicating liquor or noxious drugs; (2) are appropriate for the personal use and benefit of the employee and his family; (3) the value attributed to them is fair and reasonable; and (4) they do not exceed 40% of total wages	Employment Act §84 Employment Act §151(c)
Burkina Faso	Yes (only when transferred)		Condition & value of lodging/food set by statute	Displaced Workers	An employee displaced from usual residence who cannot afford his own lodging or a regular supply of basic food for himself and his family, has the right to receive these items from employer; the conditions and value of the lodging/ food is set by statute	Labour Code §183, 184, 187(1)3), 192(3)
Burundi	Yes		Value of fringe/in kind benefits fixed by order of the Minister of Work and Finance		All labor contracts must have certain items, including base salary, bonuses and allowances, family benefits, and benefits in kind. "Compensation should be sufficient for the worker and his family a decent living "	Burundi - Code Travail Art 5, 18
Cameroon	Yes (only when transferred)		Lodging sufficient and decent for worker's family	Displaced Workers	An employee who has moved from his regular place of residence for employment must be given lodging that is sufficient and decent and correspond to the worker's family situation; the employer must also provide food for the worker and his family if he cannot afford it. If the employer cannot provide lodging, it must pay the worker an indemnity fixed by order.	Labour Code §66 Cameroun

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Cape Verde	Yes				Wages are payable in cash or in kind. Art 18 - states all labor contracts must have certain items, including a listing of base salary, bonuses and allowances, family benefits, and benefits in kind	Labour Code §199(1)
Central African Republic	Yes				Wages are payable in cash or in kind	Labour Code §221
Chad	Yes	38% of MW for ag. (if 1 meal and rations for 8 hour workday)	Value of a meal is equal to the hourly minimum wage of an ag. worker; daily ration is equal to twice the hourly minimum wage of an ag. worker		Wages can be paid in cash or in kind; if they are paid in kind, a deduction can be made from a worker's salary.	Decree Concerning the Increase of the MW for Ag. and Non-Ag. Workers §5, 6
Comoros	Yes	Maximum amounts set by law	Food and lodging minimum qualities set		For housing: conditions set especially with regards to hygiene & maximum amount for reimbursement. For food: details and weight set for food provided. For food and housing, maximum reimbursement set.	Labour Code §99
Democratic Republic of Congo	Yes (when agreement but excluding housing & health care)			Housing and health care not allowed	Wages that can be valued in money and fixed by agreement.	Labour Code 015/2002 article 7 (h)

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Cote d'Ivoire	Yes (only when transferred)			Displaced Workers	An employer must guarantee lodging for permanent worker (and family), who is not originally from the place the work is performed and does not have his/her habitual residence in such place, who cannot pay, by his/her own means. The employer shall also provide or help to provide food needs whenever the worker is unable, by his/her own means, to obtain it regularly for him/her and his/her family.	Labour Code §31.5
Djibouti	Yes (when CBA or individual agreement)				Wages are payable in cash or in kind pursuant to enterprise agreements, collective agreements or individual agreement between worker and employer.	Labour Code, Act n. 133/AN/05, 28 January 2006. §136
Egypt	Yes (only for remote areas)		Conditions for food and lodging set by trade unions	Transport to workers in remote areas. Food not allowed.	Wages are payable in cash EXCEPT: (1) employers must provide transportation if the worker is in a remote area without normal means of transportation; (2) employers must provide workers away from urban areas with suitable food/dwellings. The food cannot be substituted wholly or partially for monetary payment. Conditions for food/lodging established by General Federation of Egyptian Trade Unions.	Labour Law 2003 §§38, 221

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Equatorial Guinea	Yes (where customary)	50%	Fair and reasonable	Industries/occupations where customary or desirable	In kind payment allowed in industries/occupations where customary or desirable for workers. Benefits in kind must be appropriate for the personal use of the worker and his family. Value will be fair and reasonable and shall not exceed percentage of wage determined by the Government; not to exceed 50%.	Labour Code Art 61(3) (4), 63(2)
Eritrea	Yes (when CBA or written agreement)	20%			Employer cannot deduct in kind benefits unless agreed to by collective agreement, court order, express written agreement with employee, or otherwise provided by law. The deductions from salary cannot exceed more than 1/5th of an employee's salary for the month.	Labour Proclamation 2001 §§45, 47
Ethiopia	Yes (when CBA or written agreement)				Minimum wages are set by collective agreements or contracts of employment.	Labour Proclamation 2003
Gabon	Yes (only when transferred)			When residence changed	Every contract that imposes a change of residence on a worker obliges an employer to provide accommodation or pay the worker an indemnity; when a worker cannot afford food, an employer must guarantee a regular supply of food.	Labour Code §141, 142

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Gambia	Yes (where customary)		Fair and reasonable	Occupations where customary	Partial payment of wages allowed in occupations where this is customary and: (1) the allowances are appropriate for the personal use/ benefit of the employee and his family; and (2) the value attributed to the allowance is fair and reasonable. Wages cannot be paid in the form of liquor or noxious drugs.	Labour Act §76(4)(5)
Ghana	Yes (when CBA)				Wages set through decentralized collective bargaining.	Labour Act
Guinea	Yes		Fair and reasonable		Partial payment of wages allowed where: (1) the allowances are appropriate for the personal use/ benefit of the employee and his family; and (2) the value attributed to the allowance is fair and reasonable. Wages cannot be paid in the form of alcohol or drugs.	Labour Code §206(2)
Guinea-Bissau	Yes	50%			In kind benefits cannot exceed 50% of total wages.	Decree 17/88, dated 4 April 1988, fixing the national minimum wage (Boletim Oficial, N°. 14, 4 de Abril 1988). §6(3)
Kenya	Yes (when CBA, or contract)				Allows for in kind benefits if it is in a contract of service or collective agreement and: (1) the employee consents; (2) the benefit is for the personal use of the employee; and (3) does not include any intoxicating spirit or noxious drug	Employment Act 2007 §17(5)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Lesotho	Yes (when employee agrees & customary)		Food and lodging mentioned	Industries where it is customary	Employee can agree to be partially paid in food, lodging and/or other in kind benefits customary in his/her trade or occupation.	Labour Code 1992 §§56, 58(1), 81(1)
Libyan Arab Jamahiriya	Yes (only for remote areas)		Conditions and specifications for housing and types of food. Food and housing mentioned.	Workers in remote areas; mines, oil prospecting, drilling, and exploration; investment plants	An employer shall provide workers employed in remote locations as well as in mines, oil prospecting, drilling and exploitation or investment plants, with: (1) transport to their place of work; (2) housing; and (3) 3 meals a day. The General People's Committee shall set the conditions and specifications for the housing and types and quantity of food, plus the share of the expenses relating to each which shall be borne by the worker. No worker may waive his right to meals in return for a cash payment.	Labour Relations Act 2010 §23
Madagascar	No				All wages must be paid entirely in legal tender	Labour Code § 62
Malawi	Yes				Wages include cash and in kind benefits	Employment Act §3

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Mali	Yes (in decrees)	38% (2.5 times MW hourly rate for food & 0.5 MW hour for lodging. This implies about 38% for 8 hour workday)	Minimum quality standards for housing, water, food in law. Housing must have: durable structure; roof and exterior walls; windows for adequate ventilation and light; lit at night as customary in region; equipped kitchen; habitable condition; 14 cubic meters air space hygienic toilet. 20 liters of water pd pp with potable drinking water. Daily rations for food each day must include four food groups: cereal, starch or bean; animal product; fat or nuts; salt and spices/condiments.	Special rules for domestics (see description)	Requires decrees to establish: (1) when the employer has to provide accommodation and daily subsistence ration, the conditions for providing them, their composition and their maximum reimbursement amount; and (2) the cases in which other in kind payments should be done and their modalities of payment. For domestics, where food/ lodging are provided, employer can deduct: (a) 2.5 hours of minimum wage for food; and (b) 0.5 hours of minimum wage for lodging.	Labour Code §L.96(2)(3); Decree n. 96-178/P-RM, 13 June 1996, on the application of the Labour Code. §D.86-10, D.86-12
Mauritania	Yes				In kind benefits are taken into account in calculation of minimum wage except for overtime payments and reimbursements of expenses	Labour Code §196(2)
Mauritius	No				Minimum wage does not include any allowance or other benefit given to an employee in addition to his wages	Additional Remuneration Act 2009 §2



Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Morocco	Yes (excluding agriculture)			All <u>except</u> agriculture	"Tips and accessories, in cash or in kind, are taken into consideration in assessing the legal minimum salary. In agricultural activities, in kind benefits are not taken into account in calculation of the minimum wage."	Labour Code §357
Mozambique	Yes	25%	Regional prices		In kind benefits are permitted as long as they do not exceed 25% of the total remuneration calculated on the basis of current regional prices.	Labour Law §113(1)a)
Namibia	Yes (when CBA)				Minimum wages are set by collective agreements. Therefore, in kind benefits are permitted if they are part of a collective agreement	Labour Act §§ 13, 14, 70, 71, 105, 113, 114
Niger	Yes (when transferred)		Sufficient and decent lodging. Food and lodging mentioned.	Displaced Workers	In kind not permitted except for an employee who has moved from his regular place of residence for employment must be given lodging that is sufficient and decent and correspond to the worker's family situation; the employer must also provide food for the worker and his family if he cannot afford it.	Labour Code, Chapter 3, Section I, Art. 151
Nigeria	Yes (when by law, CBA, or arbitration agreement & customary)		Food and dwelling mentioned.	Industries where it is Customary	An employer may provide food, a dwelling place or any other allowance or privilege as a part of a workers' remuneration if it is prescribed by law, collective agreement or arbitration award, because it is customary or desirable in view of the nature of the industry or occupation in which the	Labour Act §1(2)

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
					worker is engaged.	
Rwanda	No				Payment of the whole or part of the salary in kind is forbidden	Law Regulating Labour in Rwanda N. 13/2009, from 27/05/2009 (Labour Code). §80 Act N. 51/2001, establishing Labour Law, from 30/12/2001. §94
Sao Tome and Principe	Yes	50%			In kind payment may not exceed 50% of total wage	Labour Law §95(3)
Senegal	Yes	38% (2 times MW p.h. for rations & 1 time MW p.h. for meal. Implies 38% for 8 hour workday)	Daily rations at 2 times MW hourly rate & one meal at MW hourly rate		In kind payment permitted but not as payment for overtime. The employer may keep the equivalent to two times the minimum wage rate per hour maximum for the daily ration expenses and the equivalent to one time the minimum wage rate per hour maximum for only one meal.	Decree on the inter-professional and agricultural minimum wages Art.3,4

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Seychelles	Yes (if does not reduce below MW in cash)	Yes – see next column	Lesser of: amount govt prescribed; actual cost; difference between wage & MW.		Where the government has prescribed a maximum sum for food/ housing, an employer may deduct an amount for food/ housing if the worker earns above minimum wage. In deducting, an employer must use the lesser of the following: (1) the maximum prescribed by the government; (2) actual cost; or (3) the difference between the workers' wages and the minimum wage. No deductions are allowed if a maximum has not been prescribed.	Employment Act 1995 §§32, 33(1), 42
Somalia	Yes (only when transferred)		Accommodation and food mentioned	Displaced Workers	Remuneration to a worker shall be paid in legal currency. An employer may not make any deduction from or withhold any money forming part of the wages and cash payments due to the worker. However, an employer shall provide the following fringe benefits to workers: (1) accommodation when a worker is required to be away from his normal residence; (2) free food or a subsistence allowance a worker is required to work away from his normal residence and there are suitable messing facilities; and (3) free transport to and from the place of work, when a worker is required to work in a town or locality away from his normal residence.	Labour Code 1972 §§49(6), 73(1), 75, 82

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
South Africa	Yes	20% for agriculture (10% for food & 10% for accommodation)	Minimum quality standard for housing on farms: durable waterproof roof; glass windows that open; electricity if available on farm; safe water; flush or pit toilet; at least 30 square meters of space.		Minister of Labour should consult with NEDLAC and the Employment Conditions Commission before determining whether any payment, in money or in kind, forms part of an employee's remuneration. The Minister may place a minimum or maximum value on any payment that forms part of remuneration and determine a formula for calculating the value of such payment.	Basic Conditions of Employment Act 1997 as amended 2002 Section 7
Sudan	Yes (only food, fuel, lodging, transport, clothing)		Only food, fuel, lodging, transportation and clothing allowed.		Wages shall be paid in cash except employer-provided food, fuel, lodging, transportation or clothing.	Labour Code 1997 §35(1), (8)
Swaziland	Yes (when written agreement)		Fair and reasonable		The Employment Act provides that an employer may, in pursuance of a written agreement with an employee, pay to that employee, in addition to monetary wages, allowances in kind which shall- (a) be of personal benefit to the employee and his family; (b) be of fair and reasonable value appropriate to the monetary value placed on the allowance by the employer; and (c) not be in the form of noxious drugs or intoxicating liquor.	Wages Act 1964 §14 Employment Act 1980 §§46, 48

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Tanzania	Yes (when employee agrees or by minister regulation)	68% (for domestic)	Fair and reasonable. Food and lodging mentioned	Special rules for domestics	Payment must be made in cash unless the employee agrees otherwise. The Minister may by regulations provide for the partial payment of remuneration in the form of allowance in kind, but in no case alcoholic beverages or noxious drugs, in industries or occupations in which payment in the form of such allowance is customary or desirable, and any such allowance in kind shall be for the personal use of the employee and his or her family, and the value attributed to such allowance shall be fair and reasonable. Domestics who live and share food/ other services with employers, shall have up to 68% of their wages deducted for this.	Employment and Labour Relations Act 2004 §27(1), (4); Regulation of Wages and Terms of Employment Order 2010 §4(4), Part A of the Second Schedule. ILO 2003 Protection of Wages report.
Togo	Yes				Payment in kind is permitted but only as partial payment. Payment in alcohol or alcoholic drinks is prohibited.	Labour Code Art.126
Tunisia	Yes (if does not reduce below MW in cash)				Payment in kind is allowed but cannot be deducted from minimum wages	Labour Code Art.134-2, art.139

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Uganda	Yes (when customary)		Fair and reasonable. Food and lodging mentioned in ILO 2003 Protection of Wages report.	Industries where it is customary or desirable	Regulations may provide for the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable. In kind benefits must be for the personal use of the employee and his or her family, and the value attributed to such allowance shall be fair and reasonable. In kind benefits cannot consist of alcoholic beverages or noxious drugs.	Employment Act §41(3)
Zambia	Yes (when agreed, or CBA, or customary, or written law)			Industries where it is customary	In addition to wages, an employer can pay allowances in kind, where such payment is customary or agreed to by the employee or provided for in a collective agreement or in accordance with any written law, provided that any such payment shall be for the personal use and benefit of the employee, and his family, and shall not be in the form of intoxicating spirits or noxious drugs.	Employment Act Art 44(1) and (3)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Zimbabwe	Yes (where customary)		Fair and reasonable	Industries where it is customary	Remuneration may be payable in kind only in industries or occupations where such payment is customary, and shall be subject to the following conditions: (1) the payment is appropriate for the personal use and benefit of the employee or his family; (2) the value attributed to it is fair and reasonable; (3) equipment/ clothing required to protect the health and safety of the employee is not included as an in kind benefit; (4) the payment is not liquor or drugs; and (5) in kind benefits do not substitute entirely for remuneration in money.	Labour Act 1985 (as amended) s12A(1) and (2)
<b>ARAB STATES</b>						
Bahrain	Yes (housing only)	25% (for housing only)	Housing mentioned		Employees can be given up to 25% in housing allowances. Workers cannot be compelled to purchase food/other goods from certain establishments or which are produced by his employer.	Labour for the private sector Art 66. Art 73. Art 74.
Iraq	No				Wages shall be paid in Iraqi currency. Wages cannot be subjected to deductions other than those authorized by law.	Labour Code §4, 42(2),§43,§44
Jordan	Yes				In kind wages are allowed	Labour Code Art.2

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Kuwait	No				Employers can take deductions up to 25% of the normal salary against alimony, or debts for food, clothes or other debts. Workers cannot be compelled to purchase food/ other goods from certain establishments or which are produced by his employer. Employer must provide for housing and transport for work in remote area.	Labour Law Art.56, art.59, art.60 Ministry of Social Affaires and Labour Report Art.30
Qatar	No				"Wage" is the basic wage plus all increments allowances and bonuses paid to the worker in return for or in respect of work of whatever kind and means of calculation. Workers shall be paid in Qatari currency. Workers cannot be compelled to purchase food/ other goods from certain establishments or which are produced by his employer	Labour Law Art. 1,66,69
Lebanon	Yes				Wages can be paid in currency or in kind	Labour Code Art.47
Saudi Arabia	Yes (in remote areas)		Food and accommodation mentioned.		Wages shall be paid in the country's currency; employers of employees in remote areas as well as seamen must provide various benefits including food and accommodation.	Labour Law Art.90(1); Royal Decree No. M/51 (2005) sections 146-147, 172, 178



<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Syrian Arab Republic	Yes (when CBA, contract, regulation)				"Wage" means any cash or in-kind remuneration given to workers in return for their work, in addition to any and all allowances awarded to workers under individual employment contracts, collective labour agreements or basic labour regulations. Wages must be paid in legal tender; however, they can be attached for various purposes, none of which relate to wage (alimony, dowry, debt repayment); aggregate deducted cannot exceed 50% of wage.	Labour Law (No. 17 of 2010) Art.1, 78,84
United Arab Emirates	Yes (cannot reduce below MW in cash)			excludes domestics and agriculture	Wages must be paid in legal tender; however, they can be attached for various purposes, none of which relate to living wage; amount deducted cannot exceed 25% of the wage. Remuneration is whatever given to employees in cash or in kind.	Labour Law 1980 §60
Yemen	Yes (only when remote)		Adequate housing and food required. Housing, transportation and food mentioned.	Workers in remote areas	Wages must be paid in legal tender; however, when a worker is sent to an area remote from his workplace, he shall get a housing allowance; employers must provide their workers with transportation from their home or an assembly-place to the job; for workers in remote areas, employers must provide them with adequate housing and food.	Labour Code Art.61, 62, 64, 68, 69, 70.

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
<b>AMERICAS</b>						
Antigua and Barbuda	Yes (when employee agreement)				In kind benefits permitted if previously agreed-upon by employee. Nothing can be deducted from the wages that the employer has contracted to pay in cash.	Labour Code of Antigua and Bermuda C31 (1), A5 and D15
Argentina	Yes (if does not reduce below MW in cash)	20%			In kind benefits are permitted but the employee must receive up to the minimum wage in cash (in kind benefits cannot be counted to achieve minimum wage). In kind benefits cannot be more than 20% of total wages. Different minimum wages set for domestics, depending on whether they live in or out of the household.	Law No. 20.744 on Employment Contracts Art.105,107,116 Resolution No.1350/2011 Annex
Bahamas	Yes				"Wages includes every form of remuneration for work performed, but does not include tips, bonuses or other gratuities."(MW Act). "Remuneration includes wages, in kind benefits and allowances (Employment Act).	Employment Act 2001. Minimum Wages Act §7
Barbados	Yes (when employee agrees)		Fair and reasonable		If employee agrees, employer can pay employee any in kind benefit which is (a) of personal benefit to the worker and his family; (b) is a fair and reasonable value; and (c) is not in the form of noxious drugs or intoxicating liquor.	Protection of wages Act §3(1)(2), §13(1)(2)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Belize	Yes (when employee agrees & is customary)		Fair and reasonable	Industries where it is Customary	If employee agrees, employer can pay employee partially any in kind benefit which is (a) of personal benefit to the worker and his family; (b) is a fair and reasonable value; (c) is not in the form of noxious drugs or intoxicating liquor; and (d) is customary or desirable because of the nature of the industry/ occupation	Labour Act §107(1), §95(1)
Bolivia	Yes (except for domestics)			No domestics	Payment of in kind benefits is permitted EXCEPT for domestics	General Labour Act Art.53; Supreme Decree No. 23570 Art.3 Act n°2450 on Domestic Work Art.14
Brazil	Yes	70% of MW)			In kind allowances cannot exceed 70% of minimum wage	Codification of Labour Legislation §82
Canada	Yes (if does not reduce below MW in cash)	Amounts specified by govt (20% in Manitoba if 1 meal and lodging)	Amounts set by govt. For example, Manitoba was \$1 per meal and \$7 per week for lodging in 2012		(Manitoba) Deductions or payments from wages for the provision of meals or lodging by the employer may not reduce the wages of the employee below the relevant minimum wage rate by more than \$1 for each meal provided or \$7 per week for lodging. (Ontario) has specific regulations for determining whether minimum wage has been paid when in kind benefits are counted.	Employment Standards Code (Manitoba) §14; Employment Standards Act (Ontario) §5(4)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Chile	Yes (if does not reduce below MW in cash)			Special rules for domestic/ agricultural	In kind benefits are permitted but only as an increase on cash wages; there are specific regulations for agricultural and domestic workers. Domestic workers can receive in kind benefits but cannot receive lower than minimum wage in cash	Labour Code Art.41,54,151
Colombia	Yes (when in contract)	30% (of MW)	Value determined by experts. Food, clothing, lodging, fuel and crops mentioned.	Special rules for agricultural workers	In kind benefits are allowed in the form of food, clothing and lodging to the worker or family if expressly in the employment contract. Cannot exceed 30% of minimum wage. For farm workers, minimum wage set taking into account the facilities the employer provides to the workers, such as room, crops, fuel and similar circumstances that decrease the cost of living.	Labour Code Art.129, 146(2,3)
Costa Rica	Yes	33.3%	Food, clothing, housing, and land mentioned	special rules for agriculture	In kind benefits are allowed in the form of food, clothing, housing for the worker or his family and other goods for immediate personal consumption. May include land given to agricultural worker for farming. Coffee workers can be paid in coffee. Wage can be increased by 50% for in-kind in absence of agreement between parties.	Labour Code Art.164,166.
Cuba	Yes (only if transferred)			Displaced Workers	Employees who have to move from their usual place of abode shall be provided food and housing or payments in lieu thereof	Labour Code Art.123, 129

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Dominica	Yes (if employee agrees)		Food and lodging, mentioned	Special treatment of domestics	In kind benefits are allowed in the form of food, lodging or other allowances/ privileges in addition to money if employee has agreed; for domestics, minimum wage is lower if domestic is provided with food and/or accommodations	Protection of Wages Act, 1961, Chap 89:07 §3, 13; Labour Standards Act, Chapter 89:05 Minimum wage 2008. Schedule
Dominican Republic	Yes			Certificates to stores not allowed	In kind benefits are permitted except they cannot be paid through the delivery of certificates and other forms	Labour Code Art.192, 195, 196
Ecuador	Yes (when value agreed to)		Valued by agreement between parties. If no agreement, valued by judge. Food and accommodation mentioned	Special treatment of domestics	In kind benefits are permitted and the value shall be agreed to by the parties; if they cannot reach agreement, the value shall be decided by a judge; with domestic workers, employer shall provide food and accommodation unless otherwise provided.	Labour Code Art.95, 393; Labour Code Art.268
El Salvador	Yes (only domestics)		Food and accommodation mentioned	Special treatment of domestics	An employer must pay employee cash for services. However for domestics unless otherwise agreed, salary shall comprise in addition to payments in cash, the provision of food and accommodation.	Labour Code Art.119  Labour Code Art.78

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Grenada	Yes		Fair and reasonable	Industries where it is customary	In kind benefits allowed in industries in which it is customary as long as: (a) it is not in the form of liquor or noxious drugs; (b) the allowances are appropriate for the personal use and benefit of the employee's family; and (c) the value attributed to the allowances is fair and reasonable.	Employment Act §47(5)
Guatemala	Yes	30%	Value at no more than cost to employer. Food mentioned.		In kind benefits allowed in the form of food or other benefits for personal consumption of worker or his family. It cannot be more than 30% of wages; valued at no more than the cost to the employer.	Labour Code Art.90
Guyana	Yes (if in contract)		Food, drink, housing, transportation and other allowances/privileges allowed		If employee contracts with employer for it, in kind benefits in the form of food, drink, housing and other allowances/privileges, are permitted.	Labour Act §19(2), §23(1)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Haiti	Yes		Food, lodging, clothes and other articles designed for immediate consumption	Land provided pexpressly excluded from in kind benefits	Wages in kind are permitted and shall consist in benefits like food; lodging; clothes and other articles designed for immediate consumption by the worker. Land that is provided by an employer to an employee for employee to farm cannot be considered an in kind benefit. Employees cannot be forced to buy items at an employer store. If the employer store is the only place around where an employee can buy goods, the government will ensure that the goods are sold at reasonable prices or that prices are not exploitative to make a profit for the employer.	Labour Code §139
Honduras	Yes (for rural workers)	30%	Value at no more than cost to employer. Food and housing mentioned.	Rural workers	In kind benefits permitted for rural workers in form of food, housing, other articles for personal consumption. Cannot be more than 30% of wages and must be valued at or below cost to employer. Does not include supplies furnished to employee by employer free of charge.	Labour Code Art.365, 366
Jamaica	No (for MW)		Food and lodging mentioned as not allowed.		Wage means remuneration in cash and does not include payments in kind such as lodgings, food or any other benefit conferred to any worker by his employer.	The Minimum Wage Act Orders §2; The Minimum Wage Act §8(1)

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Mexico	Yes (if agreement & does not reduce below MW in cash)		Cannot be abusive or compulsory		"Minimum wages shall mean the smallest cash payment that a worker shall receive." In kind benefits are permitted by agreement between employer/ employee as long as they are not abusive or compulsory for the employee; they can be a proportion of the salary received	Federal Labour Act Art.101,102 and 103. Political Constitution of the United States of Mexico Art.123A(X)
Nicaragua	Yes (for agriculture or domestics)			Agricultural or domestic workers	In kind benefits are permitted for agricultural or domestic workers as part of the remuneration	Labour Code Art.86, 146
Panama	Yes (if does not reduce below MW in cash)				In kind benefits are permitted but a minimum wage must be received in cash - - in kind benefits cannot reduce this	Executive Decree No. 9 Art.1; Executive Decree n° 263 on Minimum Wages Art.9
Paraguay	Yes	30% (60% for domestics )		Special rules for domestics	In kind benefits permitted but cannot be more than 30% of wages; for domestics, in kind benefits cannot reduce wages to more than 40% below minimum wage	Labour Code Art.231
Peru	Yes (when agreement)		Food and accommodation mentioned	Special rules for domestics (must give food & accommodation cannot be counted as part of remuneration)	In kind benefits permitted upon agreement between employer/ employee; for domestics, the employer must provide food/ accommodation but this cannot be considered as part of the remuneration	Act n° 27986 on Domestic Workers Art.5. Supreme Decree 003-97 TR Law on Labour Productivity and Competitiveness Art.6



Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Saint Kitts and Nevis	Yes		Food and dwelling mentioned		In kind benefits, such as food, dwelling or other allowances or privileges permitted in addition to wages	The Protection of Wages Ordinance Art.3, 5(1), 10
St Vincent and Grenadines	Yes (when law, CBA)					ILO 2003 Protection of Wages Report
Suriname	Yes		Food, clothing, lodging and other mentioned		No restrictions	ILO direct request CEACR in 2013 ILC
Trinidad and Tobago	Yes (when CBA)				Law does not state whether or not in kind benefits permitted; wages set by decentralized collective bargaining but cannot be set lower than minimum wage	Minimum Wage Order §2
United States	Yes (where customary)	Equal to 13% of MW for meals in CA & 4% for meals in CT	Specific amounts often set in state laws (e.g. \$0.85 per meal in Connecticut & \$2.90 for breakfast, \$3.97 for lunch, and \$5.34 for dinner in California). Board and lodging mentioned in federal law.	Where customary	Cost of board and lodging can be considered part of an employee's wages if they are customarily provided by the employer. Many separate state laws (see separate analysis for 5 states).	Fair Labor Standards Act 1938 (as amended) s.103 (m)
Uruguay	Yes (law, CBA, or regulation)					ILO 2003 Protection of Wages Report
Venezuela	Yes (if does not reduce below MW in cash)				In kind benefits permitted but cannot be used to reduce minimum wage, which must be paid in cash	Decree n° 8.167 updating Minimum Wages for 2011 Art.3 Organic Labour Act Art.147

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
<b>ASIA AND PACIFIC</b>						
Afghanistan	Yes		Market rates. Food mentioned		In kind benefits are permitted in the form of educational certificates/ documents; employees are permitted a food allowance based on market rates	Labour Code 2007 §§60, 61
Australia	Yes (when by enterprise agreement).				Wages are to be paid in money, or by a "method authorized under a modern award or enterprise agreement." Also separate state laws.	Fair Work Act 2009 §323
Bangladesh	Yes (if agreement & only housing)		Value of benefit. Limited to accommodation & what govt authorizes.		Deductions can be made from wages for accommodations and for such amenities and services (other than tolls and raw materials required for employment) supplied by the employer as the government may authorize. Deductions for accommodation must be accepted by employee and value cannot exceed value of the accommodation/ amenity/ service provided.	Labour Act (2006) sections X, 120, 125 (2)
Brunei	Yes (if employee agrees)		Food, fuel, electricity, water and medical mentioned		Employee can agree to have food, fuel, electricity, water or medical attendance, or of any amenity or service provided to him deducted from his salary. Employer cannot provide in kind benefits in the form of alcohol/ noxious drugs.	Employment Order §60, §2, §48

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
Cambodia	Yes (if does not reduce below MW in cash)	20% for 1-3 times MW; 30% for 3-10 times MW; 50% for >10 times MW; 0% for <MW	Health care not allowed		In kind benefits are permitted but cannot be used to reduce the wage below minimum wage. In kind benefits do not include healthcare. Various maximums, depending on total wages.	Labour Law §§103, 130
China	No				Wages must be paid in cash. No statutory provision for in-kind allowances identified.	Labour Law §50
Fiji	Yes (if agree in writing & less than market price)	15% (with 5% for accommodation or 5% for board)	Cannot exceed lowest price at which employer would sell items or provisions at retail to the public. Accommodation, fuel, light, and food mentioned.		An employee can agree to in kind benefits in writing for: (i) articles or provisions purchased on credit by the worker from the employer; (ii) the cost of accommodation, fuel or light supplied by the employer and used by the worker; or (iii) food cooked, prepared and eaten on the employer's premises.	Employment Relations Promulgation 2007 §47(1)(d) and (3)
India	Yes (when customary & authorized by govt)		At concession rates authorized by govt when govt is of opinion that provision should be made for essential commodities	Industries where it is customary	In industries where it is customary, in kind benefits can be paid if the relevant government authorizes such payment where it is of the opinion that in kind is necessary in the circumstances. Otherwise payment is in cash.	Minimum Wages Act 1948 §11 Minimum Wages Act 1948 §4(1)
Indonesia	Yes	25%			Wages can be paid by means other than cash up to 25% of the wage	Government Regulation No. 8 of 1981 on the Protection of Wages §12

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Iran	Yes (if does not reduce below MW in cash; employee must consent)		Equitable and reasonable		Wages must be paid in cash up until minimum wage; after that, wages can be paid in kind but cash value attributed to in kind benefits must be equitable and reasonable. In kind payments require employee consent.	Labour Code 1990 §§40, 42
Japan	Yes (when CBA or permitted by law)		Fair and reasonable		In kind benefits only permitted by laws, regulations and collective agreements; value attributed to them must be fair and reasonable	Labor Standards Act 1947 §24(1) Minimum Wages Act 1959 §5
Republic of Korea	Yes (when CBA or an Act)				In kind benefits only permitted as partial deductions from wages if they are allowed by Acts, statutes or within collective bargaining agreements	Labor Standards Act 1997 §43(1)
Kyrgyzstan	No					ILO 2003 Protection of Wages Report
Lao	Yes (when employee agrees or govt regulation)				Wages must be paid in cash unless otherwise prescribed by government regulations or as specifically agreed between employer and employee. In kind cannot be paid in narcotics, intoxicating substances or substances dangerous to health.	Labour Law (Amended) 2006 §47
Malaysia	No (can be provided in addition to wages)		Food, housing, etc. mentioned		Wages are expressly defined to exclude in kind benefits. However, employers are allowed to provide their employees with food, housing, etc. but it is in addition to wages. Employers cannot provide intoxicating liquors.	Employment Act 1955 §§25(1), 29(1), 29(2); Employment Act 1955 §2 National Wages Consultative Council Act 2011

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
						§2
Mongolia	No				Basic salary, additional pay, extra pay, and other pays must be paid in monetary form.	Labour Code 1999 §61.1
Myanmar	Yes (if regulation)			Housing only	Wages must be paid in monetary form. However, a minimum wage proposal or order may contain provisions authorizing deduction from minimum wage for in kind benefits.	Minimum Wages Act 1949 §13(1), (2)
Nepal	Yes				Payment of wages through provision of in kind benefits is expressly permitted	Labour Act 1992 §2(r)
New Zealand	Yes (when agreed & < employer cost)	20% (15% for board & 5% for lodging). Cannot >employer cost.	Not exceed cost to employer		Board and/or lodging may be deducted from employee's wages provided the deduction does not exceed: (1) cost to employer; or (2) 15% of employee's salary (board); or (3) 5% of employee's salary (lodging).	Minimum Wage Act 1983 §7(1) Wages Protection Act 1983 §§4, 5, 6, 7. NZ Ministry of Business and Employment website.

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Pakistan	Yes	Amounts specified for different items	Amounts allowed specified in law. Accommodation and transport mentioned.		Employer can deduct various in kind benefits from wages such as accommodation, transport and amenities/services provided.	Minimum Wages Ordinance 1961 §9. W. Pakistan Minimum Wages for Unskilled Workers Ordinance 1969 §3. Payment of Wages Act 1936 §7.
Papua New Guinea	Yes (when written consent)	50%	Food, clothing, housing, medical fund, pension fund mentioned		The following categories of in kind benefits are allowed to be deducted from wages (not to exceed 50% of wages due and upon written consent of employee): (1) contributions to pension or medical fund; (2) food and clothing; (3) housing; (4) cost of repatriation where employee is not a citizen. Other deductions are permitted for items that are not in kind benefits (such as amounts paid to employee in error, amounts that employee has lost for employer through his negligence, advances)	Industrial Relations Act 1962 §14(1); Employment Act 1978 §88
Philippines	Yes (when customary)		Fair and reasonable. Food, lodging and medical attention mentioned.	Special rules for domestics	In kind benefits permitted in form of board, lodging and other facilities customarily provided by employer. Value assigned to these must be fair and reasonable. Domestic workers must be provided, in addition to cash wages, lodging, food and medical attention.	Labor Code of the Philippines §§97(f), 102, 144

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Singapore	No				'Wages' means the basic wages. It does not include additional payments for overtime, bonuses, annual wage supplements, productivity incentive payments, and any allowances however described. Salary shall be paid in legal tender.	Employment Act §§56, 57
Solomon Islands	Yes (when in contract)		Food, water and housing mentioned		Employee can agree to in kind benefits in form of food, water and housing. Any such contract must specify the value of the in kind benefits	Labour Act and Rules §§19(1), 25(1), 65, 67, 69, Labour (Ration) Rules
Sri Lanka	No				Employers are allowed to deduct certain things from wages with the consent of the employee. However, none of these items are in kind benefits. Rather, they are items such as advances, taxes, amounts required by court order	Wages Boards Ordinance §2(a)
Tajikistan	Yes (when agreement)					ILO 2003 Protection of Wages Report
Thailand	No				Employers are allowed to deduct certain things from wages. However, none of these items are in kind benefits. Rather, they are items such as taxes, union dues, etc.	Labour Protection Act 1998 (as amended 2008) §76

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Vanuatu	Yes (when customary and approved by labor officer)		Fair and reasonable	Industries where it is customary or desirable	Employers may deduct in kind benefits but require the approval of a labour officer. The labour officer can approve in industries where in kind benefits are customary or desirable and where: (1) the in kind benefits are appropriate for the use of the employee and his family; and (2) the value assigned is fair and reasonable	Employment Act 1983 (as amended up to 2010) §16(2)
Viet Nam	No				Payment of wages must be monetary	Labour Code 1994 §59(2)
<b>EUROPE</b>						
Albania	Yes (when agreed)		Only food and accommodation allowed		In kind benefits only allowed if employer and employee agree. In kind benefits can only be accommodation or food consumed at the workplace	Labour Code § 118
Armenia	Yes (if does not reduce below MW in cash)				In kind benefits are permitted but not as part of the minimum wage	Labour Code Art.178.3, art.178.5, art.179.1
Azerbaijan	Yes					ILO 2003 Protection of Wages Report
Austria	Yes (CBA, law)		Values based on official rates except in some provinces that are set in private agreements.			CEACR C99 direct request 2012
Belarus	Yes (when agreement)					ILO 2003 Protection of Wages Report



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Belgium	Yes (when customary & written agreement)	40%	Maximum of 20% without housing and 40% with housing. Can be 50% for domestics given housing and food.	Where practical and desirable	In kind allowed where practical or desirable because of nature of the industry or occupation. Expressly written agreement is required. Maximum of 20% of gross remuneration: or 40% if also housing; or 50% if housing and food, such may be the case of domestic workers.	
Bulgaria	Yes (when CBA, labor contract, or act of Council of Ministers)				In kind benefits permitted if provided for in an act of the Council of Ministers, a collective agreement or labor contract	Labour Code Art.269
Croatia	Yes (when contract, CBA, regulation)				The salary referred of this Article includes basic salary and all additional payments of any type made by the employer to the employee for the work performed, either directly or indirectly, in cash or in kind, under an employment contract, collective agreement, employment rules or other regulation.	Labour Act Art. 33(4), 60(1), 83(3)
Cyprus	Yes (when agreed)		Fair and reasonable	Industries where it is customary	In kind benefits are permitted if agreed to in advance in industries where they are customary and the value given to such allowances is fair and reasonable. Payment of wages in the form of alcohol or harmful substances is forbidden.	Protection of Wages Law 2007 (provided by in Ministry of Labour and Social Insurance, "Basic Terms of Employment - Comprehensive Guide", 2008.

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Czech Republic	Yes (when agreed & if does not reduce below MW in cash)		Fair market price		In kind benefits are permitted if agreed to in advance. They cannot be deducted from the minimum wage, however. They must be for the employee's personal use and may be in the form of products (except for tobacco, alcohol or other addictive substances), performance, work, or services. In-kind wage shall be expressed in monetary terms and its amount is equal to the price which the employer charges for comparable products, performance, work or services to other customers (Note 42) or to the fair market price (Note 43), or to the amount by which the employee's payment for such products, performance, work or services having been provided by the employer is lower than the fair market price.	Labour Code Art.119(1), (2) and (3)
Denmark	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	CBA for salaried employees in industry
Estonia	Yes (when law, agreement, or CBA)				Wages are comprised of basic wages and additional remuneration, bonuses and additional payments paid in the cases prescribed by legislation, collective agreement or employment contract. Wages shall be paid in money.	Wages Act S.2(1) & (3); S.6(1)
Finland	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	Collective Agreements Act Art 5

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
France	Yes (when customary)			Professions where customary (such as cafés, hotels & agriculture)	In kind benefits permitted in professions where it is customary such as café and hotel workers; The value of in kind benefits may be deducted from the minimum wage and the remainder paid in legal tender.	Labour Code §§ D3231-9, D3231-11, D3231-12, D3231-13
Germany	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	Collective Agreements Act
Greece	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	National General Collective Labour Agreement
Hungary	Yes				Wages are defined as remuneration based on an employment relationship paid in cash or in kind. However, it also states that all wages shall be paid in Hungarian currency unless otherwise prescribed by legislation	Labour Code S.154,158
Iceland	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	New collective agreement
Israel	Yes (when consent, or CBA, or customary)  No for MW		Market value Food and housing only	Allowed when customary	MW law does not permit consideration of in kind benefits such as board and lodging and travel expenses in determining minimum wage. Nor does it allow consideration of family allowance, length-of-service allowance, shift-work allowance, thirteenth salary, grants on an annual basis. Part of a wage may, with the consent of the employee, be paid in food and drink, other than intoxicating liquors, intended for consumption at place of work, or in housing, if this mode of payment has	Minimum Wage Act §3  Wage Protection Law 5718-1958

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
					been fixed by collective bargaining agreement or contract of employment, or is custom accepted as part of the terms of employment, so long as the value assigned to the benefit in question does not exceed the ordinary market value.	
Italy	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	Sectoral collective agreements
Latvia	Yes (when agreement)				Normally, wages should be paid in cash. However, employer and employee can expressly agree to non-cash payments	Labour Law §70
Lithuania	Yes (when CBA)				Wage must be paid in cash according to 2010 labor code. In-kind allowed in CBAs according to ILO 2003 Protection of Wages Report.	Labour Code as last amended 2010 No XI-1219. Art.186 (4)
Luxembourg	Yes		Employer must indicate value		In kind benefits are permitted as partial wages. The employer must indicate the exact value of the in kind benefits.	Labour Code Art. L. 125-7 (1). The Luxembourg Business Portal (Guichet Entreprises)
Malta	Yes (if does not reduce below MW in cash)		Food and lodging mentioned		In kind benefits are permitted but only in addition to payment of minimum wage, which must be paid in cash. Food and lodging mentioned in 2003 ILO Protection of Wages report.	Employment and Industrial Relations Act Art.11, 18

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
Republic of Moldova	Yes (when CBA)				Payment of wages in kind is forbidden. In kind can be included in CBAs according to ILO 2003 Protection of Wages report	Labour Code Art.131(3), 141(3)
Netherlands	Yes (only when minister sets this)	30% (of gross MW for private servant)	Set by Minister		Wages should normally be paid in cash. However, the Minister of Social Affairs & Public Health can approve in kind benefits for certain workers. The Minister shall fix the cash value of any in kind benefits in regulations. For private servant, maximum amount of remuneration in kind is 30% of the gross minimum wage. This should be mentioned in the contract.	MW & Minimum Leave Allowance Act §6(3). Private servants <a href="http://www.government.nl/issues/staff-of-foreign-missions-and-international-organisations/staff-of-foreign-missions/private-servants">http://www.government.nl/issues/staff-of-foreign-missions-and-international-organisations/staff-of-foreign-missions/private-servants</a> .
Norway	Yes (as wages set in CBAs)				Wages set through decentralized collective bargaining	Collective agreements
Poland	Yes (when CBA, law or regulation)		Food fuel, light, water, medical assistance indicated in ILO 2003 Protection of Wages report.		Allowed when in CBA, law or regulation according to ILO 2003 report on Protection of Wages. "There are no guaranteed in kind allowances as part of the minimum wage legislation", according to ILO MW database.	ILO 2003 Protection of Wage report. Act on the Minimum Wage.

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Portugal	Yes	50%	Must be < market value		In kind benefits are permitted but cannot exceed 50% of wage & less than market value.	Labour Code §274(2e). ILO NORMLEX.
Romania	Yes (if CBA or individual agreement and if does not reduce below MW in cash)				In kind benefits are permitted but the employee must receive up to the minimum wage in cash. They are only permitted if included in a collective bargaining agreement or individual employment agreement.	Labour Code Art.160, 166(3)
Russian Federation	Yes (if agree in writing)	20%			Wages must be paid in cash unless the employee requests in writing that they be paid in kind. The in kind amount cannot exceed 20% of wages	Labour Code §131
San Marino	Yes (if does not reduce below MW in cash)				In kind benefits are permitted but the value of average in kind benefits over the course of the year cannot be less than minimum wage	Act No.7 respecting the protection of labour and of workers Art.14
Serbia	Yes (domestics and agreed)	50% (for domestic)	Board and lodging mentioned	Domestics	Domestics can agree to up to 50% of their salary be paid in kind (i.e. board and lodging)	Labour Law Art.45
Slovakia	Yes (if does not reduce below MW in cash & with consent from employee)		Market price		In kind benefits are permitted with consent from the employee. They cannot reduce wages below minimum wage and cannot be in the form of spirits or addictive substances. Wages in kind shall be expressed in financial terms in the prices of goods from the producer or the prices of services from the service provider,	Labour Code Art.127(1)(2)(3), 118(2)

Region and Country	Whether In Kind Benefits Permitted	Maximum % of wage	Calculation Method	Limitations such as to industries or occupations	Description of Law	Citation
					pursuant to the price regulation current at the time of providing wages in kind.	
Slovenia	Yes (when employee agrees)				Wages should normally be paid in cash. However, employee can agree to in kind payments.	Employment Relationships Act Art.126(1), 134(5)
Spain	Yes (if does not reduce below MW in cash & with employee consent)	30%			In kind benefits are permitted with consent from the employee. They cannot reduce wages below minimum wage.	Royal Decree No.1795/2010 fixing MWs for 2011 Art.1. Royal Decree 1620. <sup>a</sup>
Switzerland	Yes (when CBA)				In kind benefits are determined by collective bargaining.	Code des obligations. Salaries according to Collective Agreements
Turkey	No				Wages is amount of money to be paid in cash by an employer.	Labour Act No 4857
Ukraine	Yes (when CBA)	30%	Usual and desirable. Cannot exceed production cost.		Wages are normally payable in cash. However, in kind benefits may be allowed by collective bargaining agreement (according to the price not exceeding production cost) in an amount not exceeding 30 per cent of the monthly wage. In kind benefits must also be usual and desirable from the employees' point of view.	Act on Wages §23

<b>Region and Country</b>	<b>Whether In Kind Benefits Permitted</b>	<b>Maximum % of wage</b>	<b>Calculation Method</b>	<b>Limitations such as to industries or occupations</b>	<b>Description of Law</b>	<b>Citation</b>
United Kingdom	Yes (but only for lodging)		Specified by regulations	Only housing allowed	The only permitted in kind benefit is lodging. Regulations will specify the maximum that can be deducted for lodging.	National Minimum Wage Regulations 1999 §9, 30, 36(1)

Notes: <sup>a</sup> Second Royal Decree cited in Gomes, A. & Puig, I. B. (2013). Domestic work after labor law: The case of Brazil and Spain. Labor Law Research Network Pompcu Fabra University, Barcelona. MW indicates minimum wage. Ag indicates agriculture. Govt indicates government. pp indicates per person. pd indicates per day. ph indicates per hour.



## **Appendix B: Details on in kind benefits in laws and regulations for five states and Federal Government of the United States**

### **CALIFORNIA**

#### **California Labor Code Section 224**

##### *Article 1. General Occupations<sup>10</sup>*

224. The provisions of Sections 221, 222 and 223 shall in no way make it unlawful for an employer to withhold or divert any portion of an employee's wages when the employer is required or empowered so to do by state or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, or when a deduction to cover health and welfare or pension plan contribution is expressly authorized by a collective bargaining or wage agreement. Nothing in this section or any other provision of law shall be construed as authorizing an employer to withhold or divert any portion of an employee's wages to pay any tax, fee or charge prohibited by Section 50026 of the Government Code, whether or not the employee authorizes such withholding or diversion.

#### **California Labor Code section 1176-1201**

Applies to “men, women and minors employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, but shall not include any individual employed as an outside salesman or any individual participating in a national service program carried out using assistance provided under Section 12571 of Title 42 of the United States Code.”

“1182.12. Notwithstanding any other provision of this part, on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, and on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.

1182.13. (a) The Department of Industrial Relations shall adjust upwards the permissible meals and lodging credits by the same percentage as the increase in the minimum wage made pursuant to Section 1182.12.”

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<sup>10</sup> <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=01001-02000&file=1171-1206>

## **California Minimum Wage Order MW-2014<sup>11</sup>**

“Minimum Wage - Every employer shall pay to each employee wages not less than the following: \$8.00 per hour beginning January 1, 2008, \$9.00 per hour beginning July 1, 2014, \$10.00 per hour beginning January 1, 2016

### **1. APPLICABILITY**

The provisions of this Order shall not apply to outside salespersons and individuals who are the parent, spouse, or children of the employer previously contained in this Order and the IWC’s industry and occupation orders. Exceptions and modifications provided by statute or in Section 1, Applicability, and in other sections of the IWC’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 eight dollars (\$8.00) per hour for all hours worked, effective January 1, 2008, not less than nine dollars (\$9.00) per hour for all hours worked, effective July 1, 2014, and not less than ten dollars (\$10.00) per hour for all hours worked, effective January 1, 2016.

### **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: January 1, 2008 \$37.63 per week; July 1, 2014 \$42.33 per week; January 1, 2016 \$47.03 per week

Room shared: January 1, 2008 \$31.06 per week, \$451.89 per month; July 1, 2014 \$34.94 per week, \$508.38 per month; January 1, 2016 \$38.82 per week, \$564.81 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: January 1, 2008 \$668.46 per month, July 1, 2014 \$752.02, per month, January 1, 2016 \$835.49 per month

#### **MEALS**

Breakfast: January 1, 2008 \$2.90, July 1, 2014 \$3.26, January 1, 2016 \$3.62

Lunch: January 1, 2008 \$3.97, July 1, 2014 \$4.47, January 1, 2016 \$4.97

Dinner: January 1, 2008 \$5.34, July 1, 2014 \$6.01, January 1, 2016 \$6.68

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<sup>11</sup> <http://www.dir.ca.gov/IWC/MW-2014.pdf>

## 5. AMENDED PROVISIONS

This Order amends the minimum wage and meals and lodging credits in MW-2007, as well as in the IWC's industry and occupation orders. (See Orders 1-15, Secs. 4 and 10; and Order 16, Secs. 4 and 9.) This Order makes no other changes to the IWC's industry and occupation orders.

These Amendments to the Wage Orders shall be in effect as of July 1, 2014.”

## TEXAS

### **Texas Labor Code 61.018<sup>12</sup>**

#### Deductions from Wages

An employer may not withhold or divert any part of an employee's wages unless the employer:

- is ordered to do so by a court of competent jurisdiction;
- is authorized to do so by state or federal law; or
- has written authorization from the employee to deduct part of the wages for a lawful purpose.

An employer may withhold the following items from wages only if the employee has consented to it in writing:

- cash shortages
- breakage, damage, or loss of the employer's property
- required uniforms
- required tools or other items necessary for employment
- loans (TX Admin Code 821.27)

### **Texas Labor Code 61.018**

An employee's written authorization for deductions must be specific as to the purpose for which the employee has accepted the responsibility or liability. Written authorizations must be:

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<sup>12</sup> <http://www.statutes.legis.state.tx.us/SOTWDOcs/LA/htm/LA.61.htm>

- sufficient to give the employee a reasonable expectation of the amount to be withheld from pay; and
- a clear indication that the deduction is to be withheld from wages.

If an employer uses a handbook, policy manual or other similar document instead of a separate writing, the employee's signed acknowledgment of receipt of company policies can be authorization to withhold wages if the acknowledgment meets the consent requirements listed above. The signed acknowledgment of receipt must also include language that states that the employee agrees to abide by or be bound to the authorization for deduction.

**Texas Administrative Code 40.20.821.28**

Sec. 61.016. FORM OF PAYMENT. (a) An employer shall pay wages to an employee:

- (1) in United States currency;
- (2) by a written instrument issued by the employer that is negotiable on demand at full face value for United States currency; or
- (3) by the electronic transfer of funds.

(b) An employee may agree in writing to receive part or all of the wages in kind or in another form.

(c) Payment by a written instrument that is not negotiable or for which payment is refused for any reason attributable to the employer does not constitute payment of wages for the purposes of this chapter.

**Texas Labor Code Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993**

“Sec. 62.003. EARNINGS STATEMENT. (a) At the end of each pay period, an employer shall give each employee a written earnings statement covering the pay period.

(b) An earnings statement must be signed by the employer or the employer's agent and must show:

- (1) the name of the employee;
- (2) the rate of pay;
- (3) the total amount of pay earned by the employee during the pay period;
- (4) any deduction made from the employee's pay and the purpose of the deduction;
- (5) the amount of pay after all deductions are made;

Sec. 62.053. COST OF MEALS OR LODGING. In computing the wage paid to an employee, an employer may include the reasonable cost to the employer of furnishing meals, lodging, or both to the employee if:

- (1) meals or lodging customarily are furnished by the employer to employees; and
- (2) the cost of the meals and lodging are separately stated and identified in the earnings statement furnished to the employee under Section 62.003.”

## CONNECTICUT

### Connecticut Department of Labor Minimum Wage Regulations<sup>13</sup>

#### Sec. 31-60-3. Deductions and allowances for reasonable value of board and lodging

“(a) For purposes of this regulation, "board" means food furnished in the form of meals on a regularly established schedule. "Lodging" means housing facility (available to him at all hours of the day) wherein the employee sleeps, rests and may store clothing and personal belongings.

(b) Wages paid to any employee may include the reasonable value of board and/or lodging as herein established and may be considered as part of the minimum fair wage if such a condition is made known to and accepted by the employee at the time of hiring or change of classification as a usual condition of employment. In accordance with the foregoing: An allowance or deduction of not more than eighty-five cents for a full meal and forty-five cents for a light meal will be permitted as part payment of the minimum fair wage, provided such allowance or deduction shall be made in accordance with the hiring agreement which provides for such an allowance or deduction.

(c) A full meal shall provide to the employee a variety of wholesome nutritious food and shall include adequate portions of at least one of the types of food from four of the following groups:

- (1) Fruit juice or soup;
- (2) fruit or vegetables;
- (3) bread, cereal or potatoes;
- (4) eggs, meat, fish (or a recognized substitute);
- (5) beverage;
- (6) dessert.

(d) For a meal which does not meet the qualifications of a full meal, as herein defined, but does provide to the employee adequate portions of wholesome nutritious food, and does include one of the types of food from at least three of the following groups, an allowance not to exceed forty-five cents will be permitted as part payment of the minimum fair wage

- (1) Fruit, fruit juice, soup;
- (2) cereal, bread (or a recognized substitute);
- (3) eggs, meat, fish, including sandwiches made thereof (or a recognized substitute);
- (4) dessert;
- (5) beverage.

(e) No allowances or deductions in excess of \$2.55 a day for full meals as supplied, or in excess of ninety cents for light meals, as supplied, will be permitted as part payment of the minimum fair wage. In any case where full meals are made available to the employee by the employer, the allowance of eighty-five cents for a full meal as defined will be permitted as

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<sup>13</sup> <http://www.yale.edu/hronline/forms/documents/CTAdministrativeRegulationsMinimumWage.pdf>

part payment of the minimum fair wage. In such a case the employee may not elect the light meal in lieu of the full meal. Allowances or deductions may be made only for meals consistent with the employee's work shift when the employee is on duty, and only for meals consistent with a regular meal schedule when the employee is off duty.

(f) An allowance or deduction of not more than \$4.00 a week for a private room, or of not more than \$3.00 a week for a room shared with others, will be permitted as part payment of the minimum fair wage, provided the allowance or deduction shall be made in accordance with a hiring agreement which provides for such an allowance or deduction. An allowance or deduction for lodging will be permitted as part payment of the minimum fair wage only when the facility supplied conforms to reasonable specifications with respect to size, privacy, sanitation, heat, light and ventilation. All such facilities shall be open to inspection by an authorized representative of the labor commissioner at any reasonable time. When housing consisting of more than one room is provided for the employee and such circumstances are established in the hiring agreement, the labor commissioner shall establish a reasonable allowance for such housing and in establishing such allowance as it should apply in terms of part 1 of chapter 558 of the general statutes shall be guided by the prevailing rentals for similar quarters including those authorized by the local housing authority in privately or publicly financed housing. No allowances or deductions will be permitted as part payment of the minimum fair wage when an employee is required to share a bed.

(g) Any deduction for board or lodging not conforming to the conditions herein set forth leaves the employer liable under those sections of statute forbidding the payment to the employee of a wage less than that due him because of his services. (See G.S. § 31-48, 31-70, 31-71, 31-73, and 31-74.)”

## **NEW YORK**

New York law does not permit employers to deduct:

- cash shortages,
- inventory shortages,
- loss of or damage to their property,
- required uniforms
- required tools or other items necessary for employment

An employer may deduct wages from an employees paycheck only if:

- it is permitted by state or federal law, NY Labor Law, Art. 6, 193(1)(a);
- the employee has expressly authorized the deduction in writing and the deduction is for, NY Labor Law, Art. 6, 193(1)(b):
  - insurance premiums,
  - prepaid legal plans,

- pension or health and welfare benefits,
  - contributions to charitable organizations,
  - purchase made at events sponsored by a charitable organization affiliate with the employer where at least 20 percent of the profits are contributed to the charitable organization,
  - U.S. bonds, union dues or assessments,
  - union dues or assessments,
  - discounts for parking, tokens, fare cards, vouchers, or other items enabling the employee to use mass transit,
  - fitness center, health club, or gym dues,
  - for employees at hospitals, colleges, or universities only, cafeteria or vending machine purchases made at the employer's place of business or purchases made a gifts shops operated by the employer,
  - pharmacy purchases made at the employer's place of business,
  - tuition, room, board, and fees for pre-school, nursery, primary, secondary, or post-secondary educational institutions,
  - day care and before and after-school care expenses,
  - for employees at non-profit hospitals and their affiliates, payments for housing provided at no more than market rates,
  - similar benefits of the employee, which cannot exceed 10 percent of the employee's total gross wages or salary for a pay period (See NY Regs., Title 12, Sec. 195.1).
- it is for overpayment of wages due to a mathematical or clerical error of the employer, NY Labor Law, Art. 6, 193(1)(c);
  - it is for repayment of salary or wage advances made by the employer, NY Labor Law, Art. 6, 193(1)(d).

A valid collective bargaining agreement may serve as an employee's written authorization for deductions. NY Labor Law, Art. 6, 193(1)(b)

An employer must notify an employee as soon as practicable before any substantial changes to the deductions from an employee's wages are made. NY Labor Law, Art. 6, 193(1)(b)

The employee's written consent to any deduction must be kept on file on the employer's premises for the duration of the employee's employment and for six years after the employee's employment ends. NY Labor Law, Art. 6, 193(1)(b)

An employee may revoke his or her written authorization for any deduction at any time and the employer must stop the deduction after such revocation as soon as possible and, in no

case, no more than four pay periods or eight weeks after the employee has revoke the deduction, whichever is sooner. This rule does not apply in situations where the e NY Labor Law, Art. 6, 193(2)(c)

Deductions for purchase made at charitable events, cafeteria, vending machine, and gift shop purchases at hospitals, colleges, or universities, pharmacy purchases at an employer's place of business, and similar type deductions, are subject to the following limitations:

- the employer must set a maximum aggregate amount an employee may spend in a pay period,
- an employee may set a maximum aggregate amount they will permit to be deducted in a pay period, but such amount may not exceed the maximum aggregate amount set by the employer,
- the employer must enforce the lower of the two maximum aggregate amounts,
- the employee must have access to records detailing the expenditures made by the employee and the amount to be deduct from his or her wages. The employee must be able to access the records and obtain a printed copy of them at no expense.

NY Labor Law, Art. 6, 193(2)(b)

**New York State Department of Labor, Part 142, Minimum Wage Order for Miscellaneous Industries and Occupations**

Part 142 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of the State of New York

*“142-2.5 Allowances.*

(a) Allowances for meals, lodging and utilities. (1) Meals and lodging furnished by an employer to an employee may be considered a part of the minimum wage, but shall be valued at not more than:

(i) Meals: \$2.45 per meal on and after January 1, 2007; \$2.50 per meal on and after July 24, 2009; \$2.75 per meal on and after December 31, 2013; \$3.00 per meal on and after December 31, 2014; \$3.10 per meal on and after December 31, 2015.

(ii) Lodging: \$3.05 per day on and after January 1, 2007; \$3.10 per day on and after July 24, 2009; \$3.40 per day on and after December 31, 2013; \$3.70 per day on and after December 31, 2014; \$3.80 per day on and after December 31, 2015.

(2) When a house or apartment and utilities are furnished by an employer to an employee, a fair and reasonable amount may be allowed for such facilities, which amount shall not exceed the lesser of either the value of prevailing rentals in the locality for comparable facilities, or \$5.70 per day on and after January 1, 2007; \$5.80 per day on and after July 24, 2009; \$6.40 per day on and after December 31, 2013; \$7.00 per day on and after December 31, 2014; \$7.20 per day on and after December 31, 2015.”



*“142-2.19 Meal.*

A meal shall provide adequate portions of a variety of wholesome, nutritious foods, and shall include at least one of the types of foods from all four of the following groups:

- (a) fruits or vegetables;
- (b) cereals, bread or potatoes;
- (c) eggs, meat, fish or poultry;
- (d) milk, tea or coffee; except that for breakfast, group (c) may be omitted if both cereal and bread are offered in group (b).”

*“142-2.20 Lodging.*

Lodging includes room, house or apartment, and means living accommodations which meet generally accepted standards for protection against fire, and all structural, sanitation and similar standards in State and local laws, codes, regulations and ordinances applicable to the premises.”

*“142-2.6 Employer records.*

(a) Every employer shall establish, maintain and preserve for not less than six years, weekly payroll records which shall show for each employee:

- (1) name and address;
- (2) social security number;
- (3) wage rate;
- (4) the number of hours worked daily and weekly, including the time of arrival and departure of each employee working a split shift or spread of hours exceeding 10;
- (5) when a piece-rate method of payment is used, the number of units produced daily and weekly;
- (6) the amount of gross wages;
- (7) deductions from gross wages;
- (8) allowances, if any, claimed as part of the minimum wage;
- (9) net wages paid”

## MARYLAND

The law in Maryland requires written authorization from the employee to deduct room and board from salary at the rate of reasonable cost to the employer and requires the employer to keep records that show the cost to the employer. Case citing Maryland law on the subject of room and board can be found on: <http://flsaovertimelaw.com/2010/05/27/epps-v-way-of-hope-inc-provide-documentation-of-costs-to-plaintiff-and-there-was-no-agreement-regarding-same/>

## FEDERAL GOVERNMENT<sup>14</sup>

### US Labor Code (Title 29)<sup>15</sup>

“(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Administrator, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging or other facilities are customarily furnished by such employer to his employees: Provided, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee”

### Section on wage payments of the Fair Labor Standards Act (29 C.F.R. 531)

*§531.29 Board, lodging, or other facilities.*

Section 3(m) applies to both of the following situations: (a) Where board, lodging, or other facilities are furnished in addition to a stipulated wage; and (b) where charges for board, lodging, or other facilities are deducted from a stipulated wage. The use of the word “furnishing” and the legislative history of section 3(m) clearly indicate that this section was intended to apply to all facilities furnished by the employer as compensation to the employee, regardless of whether the employer calculates charges for such facilities as additions to or deductions from wages.

*§531.30 “Furnished” to the employee.*

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<sup>14</sup> <http://law.onecle.com/uscode/29/203.html>

<sup>15</sup> [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title29/29cfr531\\_main\\_02.tp](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title29/29cfr531_main_02.tp)

The reasonable cost of board, lodging, or other facilities may be considered as part of the wage paid an employee only where customarily “furnished” to the employee. Not only must the employee receive the benefits of the facility for which he is charged, but it is essential that his acceptance of the facility be voluntary and uncoerced. See *Williams v. Atlantic Coast Line Railroad Co.* (E.D.N.C.). 1 W.H. Cases 289.

§531.31 “*Customarily*” furnished.

The reasonable cost of board, lodging, or other facilities may be considered as part of the wage paid an employee only where “customarily” furnished to the employee. Where such facilities are “furnished” to the employee, it will be considered a sufficient satisfaction of this requirement if the facilities are furnished regularly by the employer to his employees or if the same or similar facilities are customarily furnished by other employees engaged in the same or similar trade, business, or occupation in the same or similar communities. (See *Walling v. Alaska Pacific Consolidated Mining Co.*, 152 F. (2d) 812 (C.A. 9), cert. denied, 327 U.S. 803; *Southern Pacific Co. v. Joint Council* (C.A. 9) 7 W.H. Cases 536). Facilities furnished in violation of any Federal, State, or local law, ordinance or prohibition will not be considered facilities “customarily” furnished.

§531.32 “*Other facilities.*”

(a) “Other facilities,” as used in this section, must be something like board or lodging. The following items have been deemed to be within the meaning of the term: Meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; housing furnished for dwelling purposes; general merchandise furnished at company stores and commissaries (including articles of food, clothing, and household effects); fuel (including coal, kerosene, firewood, and lumber slabs), electricity, water, and gas furnished for the noncommercial personal use of the employee; transportation furnished employees between their homes and work where the travel time does not constitute hours worked compensable under the Act and the transportation is not an incident of and necessary to the employment.

(b) Shares of capital stock in an employer company, representing only a contingent proprietary right to participate in profits and losses or in the assets of the company at some future dissolution date, do not appear to be “facilities” within the meaning of the section.

(c) It should also be noted that under §531.3(d)(1), the cost of furnishing “facilities” which are primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages. Items in addition to those set forth in §531.3 which have been held to be primarily for the benefit or convenience of the employer and are not therefore to be considered “facilities” within the meaning of section 3(m) include: Safety caps, explosives, and miners' lamps (in the mining industry); electric power (used for commercial production in the interest of the employer); company police and guard protection; taxes and insurance on the employer's buildings which are not used for lodgings furnished to the employee; “dues” to chambers of commerce and other organizations used, for example, to repay subsidies given to the employer to locate his factory in a particular community; transportation charges where such transportation is an incident of and necessary to the employment (as in the

case of maintenance-of-way employees of a railroad); charges for rental of uniforms where the nature of the business requires the employee to wear a uniform; medical services and hospitalization which the employer is bound to furnish under workmen's compensation acts, or similar Federal, State, or local law. On the other hand, meals are always regarded as primarily for the benefit and convenience of the employee. For a discussion of reimbursement for expenses such as "supper money," "travel expenses," etc., see §778.217 of this chapter.

§531.33 "Reasonable cost"; "fair value."

(a) Section 3(m) directs the Administrator to determine "the reasonable cost ... to the employer of furnishing ... facilities" to the employee, and in addition it authorizes him to determine "the fair value" of such facilities for defined classes of employees and in defined areas, which may be used in lieu of the actual measure of the cost of such facilities in ascertaining the "wages" paid to any employee. Subpart B contains three methods whereby an employer may ascertain whether any furnished facilities are a part of "wages" within the meaning of section 3(m): (1) An employer may calculate the "reasonable cost" of facilities in accordance with the requirements set forth in §531.3; (2) an employer may request that a determination of "reasonable cost" be made, including a determination having particular application; and (3) an employer may request that a determination of "fair value" of the furnished facilities be made to be used in lieu of the actual measure of the cost of the furnished facilities in assessing the "wages" paid to an employee.

(b) "Reasonable cost," as determined in §531.3 "does not include a profit to the employer or to any affiliated person." Although the question of affiliation is one of fact, where any of the following persons operate company stores or commissaries or furnish lodging or other facilities they will normally be deemed "affiliated persons" within the meaning of the regulations: (1) A spouse, child, parent, or other close relative of the employer; (2) a partner, officer, or employee in the employer company or firm; (3) a parent, subsidiary, or otherwise closely connected corporation; and (4) an agent of the employer.

§531.34 *Payment in scrip or similar medium not authorized.*

Scrip, tokens, credit cards, "dope checks," coupons, and similar devices are not proper mediums of payment under the Act. They are neither cash nor "other facilities" within the meaning of section 3(m). However, the use of such devices for the purpose of conveniently and accurately measuring wages earned or facilities furnished during a single pay period is not prohibited. Piecework earnings, for example, may be calculated by issuing tokens (representing a fixed amount of work performed) to the employee, which are redeemed at the end of the pay period for cash. The tokens do not discharge the obligation of the employer to pay wages, but they may enable him to determine the amount of cash which is due to the employee. Similarly, board, lodging, or other facilities may be furnished during the pay period in exchange for scrip or coupons issued prior to the end of the pay period. The reasonable cost of furnishing such facilities may be included as part of the wage, since payment is being made not in scrip but in facilities furnished under the requirements of section 3(m). But the employer may not credit himself with "unused scrip" or "coupons outstanding" on the pay day in determining whether he has met the requirements of the Act because such scrip or coupons have not been redeemed for

cash or facilities within the pay period. Similarly, the employee cannot be charged with the loss or destruction of scrip or tokens.

§531.35 *“Free and clear” payment; “kickbacks.”*

Whether in cash or in facilities, “wages” cannot be considered to have been paid by the employer and received by the employee unless they are paid finally and unconditionally or “free and clear.” The wage requirements of the Act will not be met where the employee “kicks-back” directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee. This is true whether the “kick-back” is made in cash or in other than cash. For example, if it is a requirement of the employer that the employee must provide tools of the trade which will be used in or are specifically required for the performance of the employer's particular work, there would be a violation of the Act in any workweek when the cost of such tools purchased by the employee cuts into the minimum or overtime wages required to be paid him under the Act. See also in this connection, §531.32(c).