

## **Technical Note 2: Combining the concepts – payment in kind, hourly and monthly rates, live-in and live-out domestic workers**

The criteria and process for setting the minimum wage for domestic workers are the same as for all other workers. The first step to determine the wage for domestic workers therefore is to begin as if setting a national monthly minimum wage as for all other workers (see technical note 1 and chapters 8 and 5).

However, this should be based on the standard work week for domestic workers, if this is different from that of other workers, and on the proportions of live-in and live-out domestic workers in the workforce.

Once these indicators have been calculated, the prevalence of payments in kind must then be taken into account.

The following technical brief provides a step-by-step method to work through these concepts using an illustrative example. An application of these concepts as applied to Costa Rica appears in Technical Note 3.

### **1. Treating live-in and live-out domestic workers equally**

Live-in domestic workers typically work long hours each day, and are paid a weekly or a monthly rate that is not necessarily based on the same normal hours of work followed by other workers. In some countries, these domestic workers are paid on a monthly or weekly basis, rather hourly, disregarding the long hours they work.

For these workers, a minimum wage should be set that takes account of their long working hours – especially if they are excluded from limits on working time, and/or from overtime protections. A minimum wage can also be set while taking account of the cost of food and accommodation provided by the employer, under certain conditions (see section 8.10 on payment in kind).

Live-out domestic workers tend to work on an hourly basis, and earn an hourly wage. A monthly wage rate therefore is not a practical solution for them. They too are often excluded from limits on working time and/or from overtime protections. If their hourly wage rate is too low, they are also vulnerable to working very long hours.

For these workers, the hourly wage rate must be set in reference to the normal weekly hours (also referred to as the standard work week) that applies to domestic work, or, in the absence of working time protection, in reference to the same provisions afforded to other workers.

Depending on the proportions of live-in and live-out domestic workers, their respective standard work weeks and practices of payment in kind, a country might consider setting separate minimum wages for live-in and live-out domestic workers.

The following steps will ensure that the option chosen treats both live-in and live-out domestic workers equally, while taking account of the specificities of their working arrangements.

*Zubistina, a fictional country, is preparing to set a minimum wage for domestic workers.*

1) **Calculate the relevant social and economic indicators.**

(These are presented in Technical Note 1 and 3, chapter 5, and chapter 8).

For the purposes of this example, the nominal monthly gross minimum wage for all workers will be set at 500 local currency units (LCU) per month.

2) **Determine the composition of the domestic work labour force.**

The responses to this question will help determine if a country should either set an hourly minimum wage for all domestic workers or a monthly and an hourly minimum wage for domestic workers.

What percentage of domestic workers live in and live out? In the absence of data on live-in and live-out domestic workers, hours worked can be used as a proxy. Domestic workers who work hours which are approximately equal to or exceeding normal weekly hours are likely to be live-in.

- i. If the percentage of live-in domestic workers equals 0 (i.e. there are only live-out domestic workers), an hourly minimum wage is necessary. Proceed to step 4.
- ii. If the percentage of live-in domestic workers is greater than 0 but less than 100 (i.e. there are both live-in and live-out domestic workers), it may be necessary to consider both an hourly and a monthly minimum wage. Proceed to step 3.
- iii. If the percentage of live-in domestic workers is 100 (i.e. all domestic workers are live-in), it may be necessary to consider both an hourly and a monthly minimum wage. Proceed to step 3.

3) **Assess the legal coverage of domestic workers in terms of working time provisions** – including limits on normal working hours, overtime, and/or daily or weekly rest. This will also help to determine whether an hourly or both an hourly and a monthly minimum wage should be set.

Are domestic workers covered by limits on normal weekly hours?

- i. If yes:
  1. Identify the limits on normal weekly hours (i.e. standard work week) that applies to domestic workers, and proceed to point “a” below.
    - a. Do overtime provisions also apply to domestic workers?
      - If yes, both an hourly and a monthly minimum wage could be set. Proceed to step 4 below.
      - If not, proceed to point “ii.2” below.
- ii. If no:
  2. Are domestic workers covered by daily or weekly rest provisions?

- If yes, both an hourly and a monthly minimum wage could be set. The standard work week can be calculated by using the limits on rest. Proceed to step 4.
- If not: An hourly minimum wage could be set using the limits on normal weekly hours set for workers generally, or for a comparable sector. Proceed to step 4.

Before proceeding to step 4, what have we learned from the first 3 steps? The first three steps aimed to determine whether a minimum wage should be set hourly and monthly or exclusively hourly.

Generally, a minimum wage can be set monthly *and* hourly when: (i) domestic workers are covered by working time provisions (standard work week, or rest periods, and overtime provisions) and (ii) there are both live-in and live-out domestic workers.

If domestic workers are not covered by working time provisions, an hourly minimum wage should always be set to ensure that domestic workers are remunerated for each hour they work. Otherwise, if those same domestic workers receive a minimum wage that is set monthly, there is no limit on the number of hours they may have to work to earn the monthly minimum wage.

Generally, if a monthly minimum wage is set, it is good practice to have an hourly minimum wage as well. The hourly minimum wage can simply be calculated as the pro rata monthly minimum wage based on the standard workweek, and vice versa for calculating the monthly wage rate. This accommodates different working hours in the domestic work sector and also facilitates the calculation of overtime in cases where it may apply.

Table 6 summarizes some of the results obtained from following the steps above using a fictitious example of a country's domestic work labour force.

**Table 6 Composition of the domestic work labour force**

Number of domestic workers in total	Number of live-out domestic workers	Number of live-in domestic workers	Covered by working time provisions	Type of minimum wage which can be set
100	50 (of whom all work full time)	50	No	Hourly
100	50 (of whom all work full time)	50	Yes	Hourly and monthly
100	100 (of whom all work full time)	0	Yes	Hourly and monthly
100	100 (of whom all work full time)	0	No	Hourly
100	25 (10 work full time, 15 work part time)	75	Yes	Hourly and monthly
100	25 (10 work full time, 15 work part time)	75	Live-out: yes Live-in: no	Hourly*

\*In cases where only a segment of the domestic work labour force is protected by working time provisions, the minimum wage should always be set hourly.

4) **Determine the corresponding hourly minimum wage.**

The chosen rate should correspond to the monthly value noted in step 1. In our example, the minimum wage set using the standard work week for domestic workers was equal to 500 LCU per month. The corresponding pro rata hourly minimum wage can be calculated as follows:

Monthly minimum wage in LCU	500
Standard work week for domestic workers in the legislation	45 hours
Standard hours worked in a year based on the standard work week for domestic workers (presuming paid holidays are included)	45 hours a week x 52 weeks in a year = 2,340 hours worked per year
Standard hours worked per month based on standard work week for domestic workers	2,340 hours worked per year divided by 12 months = 195 hours per month
Hourly minimum wage in LCU	500 LCU per month divided by 195 hours per month = 2.56 LCU per hour

Proceed to step 5.

5) **Determine limits and the type of valuation for payments in kind.**

Once both an hourly and/or monthly minimum wage have been determined, allowances for payment in kind can be assessed. The table below presents a practical example of the different ways to value payments in kind, described in section 8.10.

For the purposes of this example, we will apply a limit on payment in kind equal to 25 per cent of the wage.

Valuation of payment in kind	Monthly minimum wage: 500 LCU	Hourly minimum wage: 2.56 LCU
Amount of payment in kind permitted		
Prohibition of payment in kind as part of the minimum wage	0 LCU permitted in kind	0 LCU permitted in kind
As a percentage of the minimum wage (e.g. 25% of the wage paid in kind)	Up to 125 LCU in payment in kind permitted	Up to 0.64 LCU in payment in kind permitted
As a level: Breakfast: 0.50 LCU per day Lunch: 1 LCU per day Dinner: 1 LCU per day Lodging: 5 LCU per day	Live-in domestic worker with lodging and all meals: 7.50 x 30 days per month = 225 LCU per month in payment in kind	Live-out domestic worker who works 4 hours per day, 5 days a week with lunch each day: 1 x 5 = 5 LCU per week in payment in kind

“Market value” and a “fair and reasonable value” are two other ways that the value of payment in kind could be set. However, no standard methods of calculating these concepts are available.

If market value is used, it is important to bear in mind that the market value should be based on the market value of accommodation or food available to the domestic worker in the neighbourhood where that worker would ordinarily live with their own family.

Market value should not be based on the value of the food and/or accommodation in the employer’s neighbourhood or surroundings – since these may be higher than the worker would normally choose, or be able, to pay for.