

CHAPTER 177

MINIMUM WAGES

177.01 DUTIES OF MINIMUM WAGE COMMISSION TRANSFERRED.

Three-judge federal court had jurisdiction of suits to enjoin enforcement of an order of the industrial commission of Minnesota establishing minimum rates for women and minors employed in industry where suits arose under federal constitution and more than \$3,000 was involved. The Minnesota legislature, in dealing in minimum wage statute with minimum wages for women and minors employed in industry, was dealing with a subject within its regulatory power. *Western Union v Industrial Commission*, 24 F. Supp. 370.

Minimum wage law is effective in industry to safeguard the interests of women and children for the public good and is in harmony with the federal policy. OAG July 3, 1946 (270).

Oregon minimum wage cases. 1 MLR 471.

Constitutional minimum wage legislation. 2 MLR 1.

Constitutional law; minimum wage; master and servant; freedom of contract; due process. 3 MLR 43; 21 MLR 98; 21 MLR 743.

177.02 DEFINITIONS.

Minimum wage act is applicable to: (1) a woman regularly employed from eight to ten hours daily three days a week; (2) one employee on a part-time, but regular, schedule; (3) a married woman living with and partly supported by her husband. The commission may upon research make one order applying to "each and every occupation." *Teipel v Sima*, 213 M 527, 7 NW(2d) 532.

177.03 TO INVESTIGATE WAGES OF WOMEN AND MINORS.

The industrial commission has authority on its own motion to initiate investigations, conduct hearings, and fix new rates. It may establish minimum hourly wage rates. OAG July 3, 1946 (270).

177.05 PUBLIC HEARINGS; WITNESSES.

Minimum wage statute is not applicable if the employment is casual or intermittent, or if the employee does not devote his time to the earning of a living wage, or if his employment is to a large extent supplemented by earnings elsewhere. *Miller v Commission*, 145 M 262, 117 NW 341.

Where at public hearing of industrial commission spokesmen for industry offered oral testimony and argument and written data and briefs, in opposition to recommendations of advisory board appointed to make estimate of wages, and such spokesmen made no demand that witnesses be sworn and examined and evidence introduced as in court proceedings, informality of proceedings was waived and could not be raised collaterally in subsequent action based on wage order adopted by commission. *Martin v Wolfson*, 218 M 557, 16 NW(2d) 884.

177.06 LEGAL MINIMUM WAGES TO BE ESTABLISHED.

Oregon minimum wage cases. 1 MLR 471.

Constitutional issue in minimum-wage legislation. 2 MLR 2.

Freedom of contract; constitutionality. 3 MLR 43.

Freedom of contract; due process. 9 MLR 281; 21 MLR 98; 21 MLR 743.

Public interest concept. 15 MLR 546.

177.07 WAGES, ORDERS.

Local conditions and territorial distinctions may be taken into consideration when promulgating a schedule. *Miller v Commission*, 145 M 262, 177 NW 341.

Objection that administrative order does not comply with statutory conditions authorizing its promulgation cannot be raised by one not prejudiced by the irregularity. Minimum wage order is not subject to collateral impeachment on the ground that facts upon which it was based were not sufficiently established by proof before the industrial commission. *Martin v Wolfson*, 218 M 558, 16 NW(2d) 884.

An employee who had charge of and supervised the business at times hired and discharged employees, purchased material, and had general supervision, worked "part time" as an ordinary laborer at the trade, was exempt from operation of the fair labor standards act of 1938. *Bernick v Coddon*, 65 F. Supp. 89.

An action under the fair labor standards act is removable from the state court to the federal district court. *Koskala v Butler Bros.*, 65 F. Supp. 276.

Directions relating to fixing, promulgating, and interpreting wage schedules of wages and standards. OAG July 3, 1946 (270).

A general order may be made by the commission affecting all occupations, finding facts respecting the weekly or monthly cost of the necessary comforts and conditions of reasonable life for women and minors. No order need be made in an occupation to which the order fixing minimum wages should apply until the commission shall find that in a single occupation or group of occupations at least one-sixth of the women and minors are receiving less than the minimum wages based upon cost of living of such limited group. OAG Dec. 13, 1946 (845-C).

177.15 ACTIONS TO RECOVER FULL WAGES.

Wages were paid to members of a fire department at an ordinance plant time and a half in excess of 40 hours per week. Sixteen hours on active duty and 8 hours per day in dormitory. The time spent in dormitories, "on call" does not entitle the firemen to pay except for actual work if called. *Eustice v Federal Cartridge*, 66 F. Supp. 55.

177.19 VIOLATION BY EMPLOYER.

The courts determine who are deemed persons of ordinary ability. That an order be admissible in evidence, L. 1913, c. 547, s. 6, must be strictly complied with. A copy of an order fixing minimum wage must be mailed to each employer affected before, as to him, it becomes effective. The court does not take judicial notice. *State v Allyn*, 150 M 123, 184 NW 787.