INTERNATIONAL LABOUR OFFICE

STUDIES AND REPORTS
Series D (Wages and Hours of Work) No. 22

THE MINIMUM WAGE

AN INTERNATIONAL SURVEY

GENEVA
1939

Published in the United Kingdom
For the INTERNATIONAL LABOUR OFFICE (LEAGUE OF NATIONS)
By P. S. KING & SON, Ltd.
Orchard House, 14 Great Smith Street, Westminster, London, S.W. 1

FRANCE

Introduction

The various measures by which minimum wages are regulated in France consist, on the one hand, of the special legislation regarding home workers, and, on the other, of quite recent legislation providing for the fixing of the minimum wages of workers in commerce and industry in general by means of collective agreements and conciliation and arbitration.

The first measures relating to the fixing of minimum rates were the three Millerand Decrees of 10 August 1899. One of these made it compulsory to include in the stipulations of State contracts, and the other two made it possible to include in the contracts of departments, communes and welfare institutions, a clause obliging employers " to pay the workers a normal wage equal, for each trade and in each trade for each category of worker, to the rates generally applied in the town or district in which the work is performed ". In ascertaining these rates the administrative authorities were to refer to any agreements that might exist between the employers' and workers' organisations of the place or district, or, in the absence of such agreements, to consult the opinion of boards composed of equal numbers of employers and workers. These measures were applied very widely at certain times during the war of 1914-1918, and have exerted a certain influence on legislation.

As regards home workers, a movement in favour of the adoption of minimum wages first arose in France in 1910. It led to the tabling of a series of Bills in the Chamber, one of which — that of 7 November 1911 — was destined to become the first Act concerning the fixing of minimum wages for women home workers, passed on 10 July 1915. This Act covered only female workers — and ndi rectly male workers — in the clothing industry; but it provided that its scope might be extended subsequently to other categories

of home workers. Under this provision, its scope was widened considerably by the Public Administrative Regulations of 10 August 1922 and 30 July 1926, by the Decree of 25 July 1935 and by the Act of 14 December 1928, which extended to *male* home workers the protection previously limited in the main to female home workers.

This legislation, despite its extension, is necessarily limited in scope by the fact that it is applicable only to home workers. But the entirely new system recently introduced by the Act of 24 June 1936 concerning collective agreements, and those of 31 December 1936 and 4 March 1938 concerning conciliation and arbitration procedure, is in fact a step towards the generalisation of minimum-wage regulation for all categories of workers in commerce and industry. Several important innovations in the Act of 24 June 1936 tend to realise this aim.

The Act provides that, at the request of any employers' or workers' organisation concerned, the Minister or his representative must convene " a meeting of a joint board for the conclusion of a collective labour agreement to regulate the relations between employers and workers in a specified branch of industry or commerce either for a particular district or for the whole territory ".

Collective labour agreements concluded in this manner are required to contain a series of provisions which form a real labour charter, including in particular a table of minimum-wage rates for the various categories and regions.

Finally, the provisions of such agreements, through a procedure laid down by the Act, may become " the basic regulations for the occupation, which may, when necessary, invalidate the provisions of more limited collective agreements and particularly collective agreements relating to specified establishments "[1].

It may happen, of course, that a joint board fails to conclude a collective agreement. But failure to conclude an agreement asked for by one of the parties constitutes a labour dispute which may be dealt with by the new conciliation and arbitration procedure, and the arbitrators and umpires may, in a case thus brought before them, lay down fair conditions of employment and in particular fair-wage rates, although they may not impose a collective agreement or order the incorporation of their award in an existing agreement.

In short, the new measures have completely transformed the liberal system which preceded them, and have given France

[1] *Ministerial Circular* of 17 August 1936.

minimum-wage regulations which resemble, in certain respects, those of Australia and New Zealand.

It should be added that France ratified on 9 August 1930 the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

Legislation at present in Force

A brief description may now be given of the scope of legislation concerning home workers and workers in industry and commerce in general, the procedure for its enforcement, the administrative bodies set up in connection with it, the machinery by which minimum wages are fixed, and the methods by which the observance of the Acts is supervised.

Minimum Wages of Home Workers

Scope

The Act of 10 July 1915, completed by that of 14 December 1928 concerning the fixing of minimum-wage rates for home workers, has been incorporated in Book I of the Labour Code, of which it forms sections 33-33 (*n*) and 99 (*a*). Its scope is determined in the original Act both by section 33, which limits its application to women home workers employed in certain branches of the clothing industry[1]—and incidentally to male home workers performing the same work—and by section 33 (*m*) which stipulates that the provisions of the Act may be made applicable, after consultation of the Superior Labour Council and by means of Public Administrative Regulations, to any other category of home workers.

The Act of 14 December 1928 subsequently extended the scope of the first of these provisions by eliminating the distinction between the sexes altogether and extending its application under the same conditions to male as well as to female home workers. Several Decrees issued under section 33 (*m*) widened the scope of the Act still further. One of these, dated 10 August 1922, brought under the Act certain industries subsidiary to the clothing industry and occupations similar to those already covered, whether connected with clothing or not; another, dated 30 July 1926, included a series

[1] Including the manufacture of hats, footwear, underwear of every kind, embroidery, lace, feathers and artificial flowers.

of trades not connected with the clothing industry (the manufacture of notepaper and other kinds of work with paper and cardboard, publicity work, woodwork, basket making, brush making, etc.); a third, dated 25 July 1935, extended the scope of the Act to workers in the silk and rayon weaving industries.

Machinery and Method of Fixing Wages

The Act entrusts the duty of fixing minimum wages primarily to the labour councils [1]. Where no such body exists, however, the prefect of the department must set up the departmental wages committee and the trade assessment committees which are destined by the Act to be substituted for it. The departmental wages committee must fix basic wages and minimum time rates, and the trade assessment committees, whose number may, if necessary, be equal to that of the trades concerned, must determine the time needed for the manufacture of mass production articles, with a view to the fixing of minimum piece rates. Rates so fixed may be contested by any person or occupational association affected in the trade. The final instance for appeals of this kind is a Central Board sitting at the Ministry of Labour. If, however, no objection is lodged against the rates within a month of their being fixed, they become compulsory, and serve as the basis of the awards of the probiviral courts and magistrates issued in settlement of labour disputes, especially disputes with regard to the wages of home workers.

The rates must further be included, in the form prescribed by a Decree of 24 September 1915 and within a month of their communication to the prefect by the committees, in the administrative records of the department. The prefect, whose duty it is to give the rates full publicity, must communicate them immediately to the local authorities and the secretariats or registrars of the probiviral courts and law courts of the district concerned, and must also hold them at the disposal of the public for information. The employers must thenceforward apply the rates as fixed and published, failing which they may be prosecuted in the civil courts by the injured parties, and also be liable to penalties.

The bodies to which, in the absence of a labour council (Act of

[1] These councils were provided for by the Act of 17 July 1908 concerning the establishment of Consultative Labour Councils (Labour Code, Book IV sections 104-133); no council has yet been set up under the Act.

17 July 1908), the Act entrusts the fixing of minimum wages include: (1) the departmental wages committees; (2) the trade assessment committees; (3) the Central Board sitting at the Ministry of Labour and acting as final instance for appeals against the decisions of the departmental wages committees and the trade assessment committees. Finally, the probiviral courts are competent, under section 33 (*i*) of Book I of the Labour Code, to deal with disputes arising from the application of the Act and in particular to correct wage scales which are below the minima fixed according to the statutory procedure.

The *departmental wages committees* are composed of the magistrate (or the senior magistrate on the active list) in the chief town of the department, who is chairman *ex officio*, and equal numbers (varying between two and four) of employers and workers chosen from the industries concerned. These are chosen by the presidents and vice-presidents of the sections of the probiviral courts, where such courts exist in the department, and where no such courts exist or their representatives are not able to agree upon the choice of a sufficient number of employers and workers, by the president of the civil court.

The *trade assessment committees* differ in several respects from the wages committees, particularly in their composition and the manner in which their members are appointed. In the first place there is not one committee in each department, but several, the maximum number being that of the industries concerned in the department. It is the duty of the prefect to determine the centres and branches of economic activity in which trade assessment committees are to be constituted, and to define their field of competence. The committees are always composed of five members — two employers, two workers (male or female) and a chairman; the chair is held *ex officio* by the magistrate of the district in which the committee sits. As in the case of the departmental committees, the presidents and vice-presidents of the sections of the probiviral courts appoint the employers' and workers' members, though, in the absence of a court, it is the prefect, and not the president of the civil court, who performs this function.

The *Central Board* must be presided over by a member of the Supreme Court of Appeal appointed by that Court; the chairman has a casting vote in case of equality of votes. For each case the Board must also include: two members (one employer and one worker) of the departmental committee which has laid down the minimum wage contested; two representatives (one employer and

one worker) of the trade on the Superior Labour Council; two members of a probiviral court (one employer and one worker) elected by all the probiviral courts together; and one permanent investigating officer of the Labour Office appointed by the Minister of Labour and acting as secretary to the Board, with the right to vote.

The period of office of the members of the departmental wages committees, the trade assessment committees, and the Central Board, is three years, but may be renewed indefinitely.

The Act provides for two kinds of minimum wages or rates : (1) a minimum time rate fixed by the departmental wages committees, and (2) minimum piece rates applicable to the manufacture of mass production articles, fixed by the trade assessment committees, and based upon time rates.

The minimum time rate to be ascertained by the departmental wages committee, according to the Act, is " the daily rate of wages usually paid in the district in question to male or female workers in the same occupation and of average skill, who are employed in a workshop by the hour or by the day, and carry out the various processes usual in the occupation in question ". Where no workshop industry exists in the same branch of production as the home industry, the minimum wage is that paid to persons working under the same conditions in a similar industry or, in the absence of a similar industry, to day labourers (male or female) in the district concerned.

The minimum wage for piece work is calculated by multiplying the minimum hourly rates fixed by the departmental wages committee by the number of hours required, in the opinion of the trade assessment committees, for the performance of the work involved in the manufacture of mass production articles. The rate must be sufficient to enable a male or female worker of average skill to earn, in eight hours, a wage equal to the minimum laid down by the wages committees [1].

Time and pieces rates thus fixed do not become compulsory until one month after their publication in the administrative records of the department, and then only if no objection has been lodged against them during this period by the Government, a trade association or person concerned, or some authorised asso-

[1] Since the application of the Forty-Hour Week Act of 21 June 1936 to factory workers in the industries concerned, the wages of home workers have generally been fixed on the basis of these working hours.

ciation[1]. In the event of an objection being lodged, however, the rates do not become compulsory until a decision has been taken by the Central Board[2].

Finally, section 33 (*e*) of the Act provides that the departmental wages committees and trade assessment committees must revise their rates not less than once every three years.

Enforcement

The measures of enforcement provided for in the Act aim principally at: (1) facilitating the work of checking the application or non-application of the Act; (2) ensuring the supervision, in the strict sense, of the application of the Act; and (3) setting up a system of fines and penalties for infringement.

The comparison of actual wages with the compulsory minima fixed by the wages committees and the trade assessment committees is facilitated, for the parties involved, by provisions of the Act which ensure that wide publicity shall be given to the rates laid down, require that the prices paid for making mass production goods shall be posted up in the rooms in which the work is given out and handed in, and oblige the employer to supply to each worker a ticket with a counterfoil attached, or a book, stating the nature and quantity of the work, the date on which it is given out, the manufacturing rate which applies, the nature and value of the requisites for which the worker has to pay, the date upon which the work is to be handed in and the total formed by the wages, and by the value of the various materials actually supplied by the home worker.

These provisions also assist the factory inspector in his task, for they make it possible for him to be kept informed by the employer of all home workers in his employment, and he can refer to the register in which the employer is bound by the law to enter the names and addresses of these workers.

The powers of the factory inspectors in this connection are defined in the special provisions contained in sections 33 (*a*), 33 (*b*), 33 (*c*)

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[1] Section 33 (*k*) of Book I of the Labour Code makes an exception to common law, and permits associations specially authorised by Decree issued on the recommendation of the Minister of Labour, and the trade associations concerned, to institute proceedings at civil law without being bound to prove loss.

[2] The Act also lays down that if it is found impossible to set up a wages committee or a trade assessment committee in a department, minimum wages must be fixed by the prefect, who must use the information supplied by the competent organisations and persons and the labour inspectors.

and 33 (*n*) of Book I of the Labour Code, and in sections 105-107 of Book II, which define their general sphere of competence. They thus have access to the places in which work is given out and handed in in establishments employing home workers, and may consult all registers and counterfoil-books kept by the employers. Although no provision of the Labour Code expressly empowers them to do so, they may also visit the homes of the workers in order to verify the accuracy and *bona-fide* character of the entries in the employer's registers and counterfoil-books and on the tickets delivered to the home workers. Finally, they must draw up reports in cases in which irregularities are found to exist. Inaccurate entries are considered as fraudulent, and are punishable by fines varying, according to the nature of the case, between 5 and 15 or between 16 and 100 francs, the maximum fine, for repeated offences by the same party, being 3,000 francs.

The Act does not expressly authorise the labour inspectors to verify the conformity of the wages paid with the minima laid down. The observance of the Act in this respect can be ensured only by civil action taken before the probiviral courts or the magistrates[1] by the workers whose interests are affected, or the trade associations or corporate bodies authorised by Decree, or by both. The Act provides that the amount by which actual wages fall short of the compulsory minimum must be made up to the worker, irrespective of any special compensation which may be granted him.

Minimum Wages of Workers in Industry and Commerce

As has already been stated, several Acts, separate in form but united and complementary in their object, set up the new wage-fixing machinery for workers in industry and commerce in general. There is the Act of 24 June 1936 concerning collective agreements, on the one hand, and, on the other, the Acts of 31 December 1936 and 4 March 1938 concerning conciliation and arbitration procedure. These measures, taken together, may now be examined by the same method as that used for the legislation regarding the minimum wages of home workers.

[1] Workers' claims regarding certain rates paid by the employers (section 33 *(j)*), must be made within one month.

Scope

The Acts just referred to begin by defining their scope in a very general fashion, mentioning the main categories of workers covered, before specifying more closely their field of application in each particular case.

Thus, the collective agreements provided for by the Act of 24 June 1936 and the conciliation and arbitration procedure defined by the Act of 31 December 1936 cover workers in industry and commerce only and exclude agricultural workers. A Bill adopted by the Chamber on 24 February 1938 provided for the extension of the scope of the Act concerning collective agreements to new categories of workers, and in particular to agricultural workers, while the Act of 4 March 1938 included these workers in the scope of the Act concerning conciliation and arbitration procedure, providing for the subsequent introduction of an Act laying down a special procedure to be followed for such workers. But no action has yet been taken to give practical effect to these provisions.

On the other hand, the collective agreements provided for by the Act of 24 June 1936 and the Bill recently adopted in the Chamber regulate the relations between employers and workers in specified branches of industry or commerce in specified districts or throughout the country, and are binding upon the contracting parties both present and future. Further, a fundamental innovation introduced by the recent legislation is the provision that agreements concluded by the delegates of the most representative employers' and workers' organisations of the district or whole country in the branch of industry or commerce concerned may be made compulsory by Ministerial Order for all employers and workers in the trades and areas covered, and may thus replace all other agreements of more limited scope. The minimum-wage rates fixed in agreements of this kind may therefore attain very general application.

The collective agreements are concluded for a specified period, which must not exceed five years, or for an unspecified period, in which case they may be denounced at any time by either of the parties, subject to one month's notice being given.

Machinery and Method of Fixing Wages

Under the new legislation, therefore, minimum wages are fixed either by means of collective agreements of generalised application or, in the absence of a collective agreement, by arbitration award.

In the former case proceedings can now be instituted upon

the initiative of one of the parties, the agreement of both no longer being necessary as in the past; the employers' or workers' organisation concerned[1] may request the Minister of Labour or his representative to convene a joint preparatory committee with a view to the conclusion of a collective labour agreement. It is important to note the innovation here introduced, which marks a step towards the generalisation of collective agreements in France.

The joint committee, convened by the Minister, and composed of delegates of the most representative employers' and workers' organisations in the branch of industry or commerce concerned, either in the region in question or, in the case of national agreements, in the country as a whole, discusses and prepares the text of the collective agreement. Section 31 (c) lays down that the agreement must determine, among other matters, minimum wages for each category and district, the procedure to be followed in settling all disputes between the employers and workers covered by its provisions, and the maximum period—not to exceed one month for the whole proceedings or eight days for each phase—for the settlement of any dispute[2]. These provisions may be made compulsory, by Ministerial Order, for all employers and workers in the occupations and districts included in the scope of the Act.

If the joint committee fails to agree upon the terms of a collective agreement, and in particular upon the minimum-wage rates to be laid down, the parties may resort to the conciliation and arbitration procedure defined in particular by the Act of 4 March 1938. Collective disputes which it is not found possible to settle within the time-limit set by the agreement must be submitted to a joint conciliation board, and, in case of the failure of the board, for arbitration to two arbitrators appointed by the parties, and, in the last resort, to an umpire chosen by these two arbitrators or, failing agreement between them, by the prefect or the competent Minister; the decision of the umpire, as far as the merits of the case are concerned,

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[1] The words of the Bill adopted by the Chamber on 24 February 1938 are: "an employers', craftsmen's, agricultural or workers' organisation concerned".

[2] Experience has shown that the parties to a collective labour agreement frequently have difficulty in organising the contractual conciliation and arbitration procedure laid down in the opening sections of the Act of 4 March 1938. It is for this reason that the Administration, in agreement with the view expressed by the Council of State, considers, when examining applications for the extension of collective agreements, that mere reference to statutory and regulation procedure (section 7 of the Act of 4 March 1938) is sufficient to make an agreement satisfy the conditions for extension as regards this point. This interpretation has been adopted by the National Economic Council in opinions given concerning draft Orders for the extension of collective agreements. (Note by the Ministry of Labour.)

is final. No appeal lies against the award of the arbitrators or the umpires except to the Supreme Court of Arbitration, and then only in cases of incompetence, *ultra vires* action, or contravention of the Act. Appeals to the Supreme Court of Arbitration may be allowed only by the Minister of Labour; they must be required in the public interest, and the opinion of the Permanent Committee of the National Economic Council must first be obtained.

This procedure applies not only to disputes arising in connection with the fixing of minimum-wage rates, but also, under the terms of the Act, to those arising from variations in the cost of living and affecting the revision of clauses referring to rates in existing collective agreements.

The Act lays down that arbitration awards relating to the interpretation of existing collective agreements or to wages have the same force as collective agreements and may, like them, be extended by Ministerial Orders making them binding on all employers and workers in the trades and districts concerned.

It will be seen from what has just been said regarding measures of enforcement that the new Acts have not provided for the creation of special permanent bodies for the administration of collective agreements, but leave the task to existing organisations and authorities. The only special body contemplated is a joint committee composed of delegates of the most representative employers' and workers' associations in the branch of industry or commerce in the district concerned, or in the country as a whole, whose duties and term of office are confined to the preparation of the text of the agreement. The registration and denunciation of collective agreements are effected at the offices of the probiviral courts and of the magistrates' clerks; applications from the employers' or workers' organisations for the convening of the joint committees to prepare agreements must be made, as already stated, to the Ministry of Labour or his representative; and the generalisation, by Order, of the scope of collective agreements within a trade, a district, or the country as a whole, is the function of the Minister of Labour.

The case is different, however, as regards conciliation and arbitration procedure, for here the Acts provide both for the conciliation and arbitration bodies for each collective agreement, limiting their period of office to the period of validity of the agreement, and for a permanent Superior Arbitration Court acting as final instance of appeal. The joint boards, which, according to the Act, must be provided for in every collective agreement, are presided over by

the prefect or his representative. Provision must also be made in every collective agreement for the appointment of arbitrators and umpires, whose duty it is to decide disputes not settled by the joint boards; the sole qualification required of these persons is that they must be French citizens in possession of civil and political rights. If the parties are unable to agree upon the appointment of the umpires, the umpires must be nominated by the president of the court of appeal in the district of the joint board.

The function of the Superior Arbitration Court, the final instance in the scheme of conciliation and arbitration, is to take final decisions on appeals based on grounds of incompetence, *ultra vires* action, or contravention of the Act, made by the parties concerned or the Minister of Labour, or appeals based on grounds of public interest and relating to the merits of the case made by the Minister of Labour. The Act of 4 March 1938 and the Decree of 3 April of the same year, which set up the Superior Arbitration Court, provide that the Court must include, besides the vice-president of the Council of State, who must be its president : (1) one president of section of the Council of State, two State Councillors, two magistrates of high rank, and two highly-placed State officials, either retired or serving; and, for decisions affecting the merits of a case, two employers' representatives and two workers' representatives appointed by the employers' and workers' representatives on the Permanent Committee of the National Economic Council; and (2) an equal number of State Councillors, high magistrates, highly-placed State officials, retired or serving, and employers' and workers' representatives, appointed as substitutes and selected from the same groups as the titular members, whom they are to replace when the titular members are prevented from performing their duties[1].

The Act requiring collective agreements to lay down minimum-wage rates for the workers covered does not state by what method these rates are to be fixed, but provides only that they shall be fixed for each category of workers and each district. The rates are thus determined by the free negotiation of the interested parties upon the joint committee responsible for the drafting of the agreement, or, if they fail to agree, by decision of the arbitrators.

[1] Under a Legislative Decree of 12 November 1938, " Honorary presidents, vice-presidents and presidents of section of the Council of State, and honorary State Councillors may be appointed to the presidency of the Superior Arbitration Court or to act as substitutes for active members of the Council of State in the Court ".

Nevertheless, the procedure for the revision of these rates, which becomes applicable in the case of settlement by the conciliation and arbitration bodies of disputes arising from variations in the cost of living, is defined in detail by the Act of 4 March 1938 concerning arbitration and conciliation procedure. This Act provides that the minimum-wage rates, fixed in the first place, as just described, by negotiation between the parties or by arbitration, must vary with changes in the cost of living. When the official index figure rises or falls by five per cent. or more the arbitrators may make a proportionate change in the minimum-wage rates laid down in the collective agreement. Such a revision may not be effected more than once in every six months unless the cost of living varies by more than 10 per cent., " in which case the revision may be effected as soon as the index figure becomes known ".

But the Act attaches an important condition to the application of this general procedure, namely, that it must be compatible with the resources of the local, regional or national economic activity affected by the demand for revision. If the parties concerned are able to prove that this condition is not satisfied, the arbitrators and umpires may fix rates at a level which takes into account the position of the economic branch affected.

The cost-of-living index used for the purposes of the Act, unless the parties agree to use another index, is the official quarterly index for a working-class family of four persons living in the department concerned, or, in the absence of such an index, the average of the corresponding indexes for the neighbouring departments. The official index is under the supervision of a special committee presided over by a high official of the Audit Office [1].

Enforcement

The new legislation contained no provisions to ensure the strict enforcement of the collective agreements and arbitration awards and did not, therefore, guarantee the observance of the minimum rates fixed. Various measures of still more recent date, however, have completed the legislation in this respect.

[1] Under section 2 of the Decree of 24 November 1938 (published in the *Journal officiel* of 25 November under the heading " *Ministère de l'Economie nationale* "), " the cost-of-living indexes calculated by the departmental commissions shall not be used for the application of the Act of 4 March 1938 concerning conciliation and arbitration procedure until they have been published in the *Recueil des Actes administratifs*. The High Commission may postpone such publication if it considers that verification of the calculations is necessary ".

A Decree of 2 May 1938 concerning production makes applicable to collective agreements extended by Order the measures requiring employers to post up workshop rules in their workplaces and in the premises or on the doors of the premises where workers are recruited (section 22 of Book I of the Labour Code).

The same Decree, following the example set by the provisions concerning home workers, makes it a penal offence to fail to pay the wage fixed in a collective labour agreement or arbitration award extended by Order. The labour inspectors are authorised to mention contraventions of this nature in their reports, but it is provided that penal action can be taken against such offenders only if the Minister of Labour considers it desirable and himself institutes legal proceedings.

A Legislative Decree of 12 November 1938 concerning conciliation and arbitration procedure provides that an employer's failure to observe an award of an arbitrator or umpire which has become final may be punished by a fine of up to 1,000 francs for each day of such failure, and that it may also entail the ineligibility of the employer (or group of employers) responsible, for a period of three years, to membership of the chambers of commerce, chambers of crafts, commercial courts, and probiviral courts, and their exclusion during the same period from all participation in contracts for work or supplies for the account of the State or a public body. Similar failure on the part of a worker constitutes an unjustified breach of the individual contract of employment, and entails the loss of the right to allowances in lieu of notice and on termination of contract, and to holidays with pay.

Another provision of the same Decree authorises the trade associations to participate in all actions arising from a conciliation agreement or an award of an arbitrator or umpire and involving any of their members, without being obliged to show that the person concerned has delegated special powers to them, provided that he has been informed and has not declared himself opposed to such participation.

Finally, a Legislative Decree of 12 November 1938 defining the status of staff representatives introduces a new section into the Labour Code (section 31 (*v g*)), the former section 31 (*v g*) becoming section 31 (*v h*)), the purpose of which is to give trade associations the same powers in respect both of collective agreements to which they are a party and of Orders extending arbitration awards under section 18 of the Act of 4 March 1938 concerning conciliation and arbitration procedure.

Application of the Legislation

A number of more or less precise conclusions may be formulated as regards the application of the legislation concerning the minimum wages of home workers, which dates back for over twenty years; but this is not the case with the quite recent legislation dealing with collective agreements and conciliation and arbitration procedure, upon which, obviously, only preliminary observations can be made.

This survey must be confined to necessarily brief remarks, but a distinction may be made between observations relating to the application of the legislation in the strict sense and those relating to its effects as regards the principal aims pursued, namely : (1) the protection of the economically weakest workers (Act concerning the minimum wages of home workers), (2) the adjustment of wages (Acts concerning collective agreements) and (3) the improvement of industrial relations (Act concerning conciliation and arbitration procedure).

Application of the Legislation concerning the Minimum Wages of Home Workers

TABLE I. — APPROXIMATE NUMBER OF ESTABLISHMENTS AND OF WORKERS COVERED BY THE ACT OF 10 JULY 1915 CONCERNING THE MINIMUM WAGES OF HOME WORKERS

Year	Number of establishments employing :				Number of workers in establishments employing :			
	Less than 10 workers	10-100 workers	100 workers and more	Total	Less than 10 workers	10-100 workers	100 workers and more	Total
1916[1]	1,728	2,960	365	5,053	6,959	91,655	109,704	208,318
1926[2]	5,233	3,802	247	9,282	22,608	98,512	50,001	171,121
1936[3]	4,624	2,343	120	7,087	19,008	51,320	18,883	89,211

[1] *Bulletin du Ministère du Travail*, August-September-October 1918.
[2] *Bulletin du Ministère du Travail*, July-August-September 1928.
[3] The most recent figures available, communicated by the French Government.

It has already been explained how the scope of the Act of 10 July 1915 has been extended, by successive Decrees, to a series of branches which it did not originally cover, and by the Act of 14 December 1928 from female to male workers[1]. As will be seen,

[1] See above pp. 79-80.

however, from the table reproduced above, this extension has not resulted in a corresponding increase in the number of establishments or of workers covered. On the contrary, the number of establishments covered, according to the inspectors' reports, fell by nearly 2,000 between 1926 and 1936, and the number of workers by nearly half.

The wages committees and the trade assessment committees provided for by the Act have been set up, and have worked normally, in most departments. Information on this matter is somewhat out of date, but it shows that in 1928 wages committees existed in every department, though in the recovered departments of Moselle and Bas-Rhin they had not at that time taken any decisions. A trade assessment committee also existed in every department except those of Deux-Sèvres, Moselle and Bas-Rhin, though the committees of Maine-et-Loire and Haut-Rhin had not, in 1928, taken any decisions[1].

TABLE II. — NUMBER OF CONTRAVENTIONS OF THE ACT CONCERNING THE MINIMUM WAGES OF HOME WORKERS (INSPECTORS' REPORTS)

	1917[1]	1926[2]	1936[3]
Number of visits made by the departmental labour inspectors to home workers	4,239	332	—
Number of contraventions reported :			
Section 33 (a)			
Statements of the inspector	27	28	8
Contents of the registers	138	3	4
Section 33 (b)			
Posting up of vates	21	11	5
Section 33 (c)			
Delivery of counterfoil-books	40	15	—
Entries on tickets	306	1	—
Adherence to posted rates	21	1	4
Presentation of counterfoils and registers	4	—	—
False statements	—	—	—

[1] *Bulletin du Ministère du Travail*, August-September-October 1918.
[2] *Bulletin du Ministère du Travail*, July-August-September 1928.
[3] The most recent figures available, communicated by the French Government.

In the absence of statistics of the inspectors' visits for certain of the years considered, care must be taken in explaining the

[1] *Bulletin du Ministère du Travail*, 1928, p. 300 : results on 1 August 1928 of the application of the legislation concerning home work.

relatively small number of contraventions notified, which may be due to a decline in the number of visits made by the inspectors; such a decline is shown, for instance, by the data available for 1917 and 1926.

Application of the Legislation concerning the Minimum Wages of Workers in Industry and Commerce

If it is remembered that less than two years have elapsed since the adoption of the first two Acts on collective agreements and conciliation and arbitration procedure, and that these Acts have quite recently been amended substantially, it will be understood why only the most rapid and summary review of this intermediate period can be attempted here.

One fact, however, stands out very clearly, namely, a considerable increase in the number of collective agreements concluded: the number of agreements registered at the Ministry of Labour between September 1936 and 15 September 1938 was 5,493[1].

It will be recalled that the Act attributes special importance to agreements extended by means of Ministerial Orders and thus made compulsory for the trade or district for which they have been concluded. Of the 5,493 agreements just referred to, which concern most of the different branches of industry and commerce, 1,172 had, on 15 September 1938, been made the object of applications for extension, and 226 had actually been extended by Order. Most of these agreements are regional in scope, but some of them, and particularly those relating to retail trade in goods other than foodstuffs, the wood industry, road transport, theatrical undertakings, and hairdressing saloons and beauty parlours, cover the whole country.

Besides the development of collective agreements since the coming into force of the Act of 24 June 1936, mention must be made of the many difficulties overcome during the same period by means of conciliation and arbitration. In an article on the prevention and peaceful settlement of industrial conflicts[2], Mr. Jules Moch, Member of Parliament and former Under-Secretary of State to the President of the Council, sums up as follows the results of the Act: " This Act has fulfilled its purpose; it has avoided, in a period of twelve

[1] *Bulletin du Ministère du Travail*, July-August-September 1938, p. 323.
[2] *Journal de Commerce*, 13 January 1938.

months, the loss of millions of days in strikes, and has brought about in their place over 5,000 conciliations and nearly 1,000 awards by umpires. The awards have all been observed, with the exception of 53 cases of violation, of which employers were responsible for 43 and workers for 10. "

Here again, however, a certain number of weaknesses have shown themselves in practice : the slow movement of the machinery of settlement; the possibility of a conflict of authority arising in addition to the initial dispute as a result of the contestation, by one of the parties, of the collective character of the conflict—a condition of the application of the Act—and finally, the absence of adequate penalties. Two measures, however, have been adopted in order to remedy these deficiencies. The Act of 4 March 1938 concerning conciliation and arbitration procedure speeded up the whole machinery by defining the powers of certain authorities and giving executive force to the decisions of the arbitrators and umpires; and the Decrees of 2 May and 12 November 1938 prescribed penalties for failure to observe the decisions pronounced.

Some Results of the Legislation

The information given below, incomplete and fragmentary as it is, will nevertheless help in forming some idea of the value of the legislation under review in relation to some of its principal objectives, namely : (1) the protection of the workers in the weakest economic position; (2) the general adjustment of wages; and (3) the improvement of industrial relations.

Protection of Workers in the Weakest Economic Position

The tables given below show, for a certain number of departments and for certain branches of the clothing industry, the minimum hourly wage rates of home workers, most of which were fixed in 1937, though a few were fixed in 1936, by the departmental wages committees. It will be seen that the rates vary considerably from one department to another, particularly in the ready-made clothing industry, in which they vary from 1.75 francs in Aude to 4.70 francs in Seine-et-Oise, the manufacture of underclothes, in which the rate is 1.50 francs in Seine-et-Marne and 3.75 in Loire, and the manufacture of footwear, in which it is 2 francs in Deux-Sèvres and 7.70 in Seine. In some cases the rates are flat rates, applicable to all home workers in the clothing industry (Lot, Haute-

TABLE III. — MINIMUM HOURLY RATES, EXCLUSIVE OF MATERIALS SUPPLIED BY THE HOME WORKERS, FIXED BY VARIOUS DEPARTMENTAL WAGES COMMITTEES

(French francs)

Department	Year fixed	Men's clothing		Women's clothing		Underwear		Footwear	
		Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.
Aube	1937	← 3.50 (F) and 4.– (M) →							
Aude	1937	← 1.75[1] to 5.–[2] →						—	—
Bouches-du-Rhône	1937	3.50[1/2] [4]	5.50	3.85		3.25[3]	3.75[4]	4.75	
Corrèze	1937	—		—		3.25		—	
Charente	1937	2.–[5]	2.10[6] 4.33[7]	—		2.50		2.60[8]	
Côte-d'Or	1937	2.60[9]		2.10		2.10		—	
Deux-Sèvres	1936	2.–[10]	2.25[11]	2.25		2.13		2.–	
Drôme	1937	3.–		—		3.25		3.50	
Finistère	1937	2.25	3.25[11]	—		—		—	
Gironde	1937	2.10[12]	3.41[13]	2.60[14]	3.10[15]	2.60	3.10	—	
Jura	1936	2.50[16]	3.60[16]			2.50		—	
Loire	1937	3.50		3.75		3.75[3]	4.75[4]	2.75	
Loire-Inférieure	1937	3.65	6.–	—		3.–[17]	5.–[18]	—	
Loiret	1937	← 2.20 (F) and 3.75 (M) →							
Lot	1937	← 2.50 →							
Lozère	1937	2.–	2.75	—	—	—	—	—	—
Marne	1937	← 3.25 to 6.50[16] →				2.90		5.10	
Haute-Marne	1937	← 2.70 →						—	
Meuse	1937	—		—		—		2.10(F)[19]	2.75 (M)
Nord (Feb.)	1937	2.35	3.05	2.05	2.95	1.75	2.65	—	
Orne	1937	← 2.– →						—	
Pas-de-Calais	1937	2.75 (F)	4.75 (M)	—		2.55(F)[20]	3.–(F)[21]	2.25 (F)	4.– (M)
Basses-Pyrénées	1937	← 3.90 →						3.30	
Hautes-Pyrénées	1937	3.–[22]	5.70			3.25[23]		—	
Rhône	1937	3.–	5.10	3.90	4.80	—		4.80	
Saône-et-Loire	1936	← 2.– to 2.30[24] →							
Sarthe	1937	2.20	3.30	2.70	3.10	2.05	3.10	2.75	3.25
Seine	1937	2.80	7.30[16]	2.86	5.95[16]	—	—	7.70	9.18[25]
Seine-et-Marne	1936	2.25	5.–	—	—	1.50		—	—
Seine-et-Oise	1937	← 4.70 →							
Somme	1937	← 2.25 →				2.15		2.35	
Tarn	1936	1.90[26]	2.–[27]	—	—	1.90[28]			
Tarn-et-Garonne	1937	← 2.25 (F) 3.– (M) →							
Vaucluse	1936	← 2.– and 2.50[16] →				2.–[28]		2.50	
Haute-Vienne	1937	3.–[29]	3.17[30]	—		2.70[28]	3.–	3.60	
Vosges	1937	← 2.25 →						3.75	
Yonne	1936	← 2.–[10] 2.25[11] →				1.75		—	

(M) Minimum wages of male workers. — (F) Minimum wages of female workers. — [1] Female learners. — [2] Bespoke tailoring workers. — [3] Ordinary underwear. — [4] Fine underwear. — [5] Large-scale manufacture of ready-made clothing. — [6] Minimum wages of female workers engaged in the manufacture of made-to-measure clothing. — [7] Minimum wages of male workers engaged in the manufacture of made-to-measure clothing. — [8] Shoes and cloth shoes. — [9] Civil and military ready-made tailoring. — [10] Ready-made clothing. — [11] Made-to-measure clothing. — [12] Shop girls. — [13] Made-to-measure clothing. — [14] Ready made clothing. — [15] Made-to-measure clothing. — [16] According to categories. — [17] Women's underwear. — [18] Men's underwear. — [19] Cloth shoes. — [20] Saint-Omer. — [21] Arras. — [22] Female workers (second category); for shop girls, hourly pay according to ability. — [23] Men's underwear. — [24] All categories of home workers, 2 frs. except job workers, for whom the rate is 2.30 frs. — [25] Bootmakers, according to categories. — [26] Pointers. — [27] Trouser makers, waistcoat makers. — [28] Shirt makers. — [29] Manufacture of clothing by mass production. — [30] Made-to-measure clothing.

SOURCE : *Recueils administratifs* of the various departments.

Marne, Seine-et-Oise), while in others they are multiple rates corresponding to the various occupations in one and the same branch or to the character of the work performed (hand work, machine work, ready-made or made-to-measure clothes manufacture, the making of ordinary or luxury articles, etc.).

One example—that of the workers in the men's and women's clothing industry in the department of the Seine—will suffice to illustrate the beneficial effect, shown also by the figures in the table above, of minimum-wage legislation upon the remuneration of home workers. Between 1916 and 1936, the minimum hourly rate of these workers rose from 0.50 fr.[1] to 4.72 frs., the average rate during the last year of this period being $9^1/_4$ times that of the first year, as compared with a coefficient of increase in the cost of living of only about 6.5[2]. This result appears particularly remarkable, but account must be taken of the amount by which the wages of home workers were below those of factory hands before and at the beginning of the war. Yet even so, there is no doubt that the position of home workers improved during the period in question, though not perhaps to the same extent as that of factory workers.

Although the minimum-wage rates quoted in the table above indicate a certain degree of adjustment when compared with those fixed a few years earlier, the increase does not appear quite to equal the increase which took place in the wages of factory workers after the application of the Forty-Hour Week Act of 21 June 1936[3]. Nor does the table reveal the further disparity caused by the grant of advantages such as holidays with pay to factory workers under the new social legislation.

In a Circular relating to the revision of the wage rates of home workers, sent out in February 1937 by the Minister of Labour to the prefects and divisional labour inspectors[4], the Minister drew attention to the harmful consequences of the disparity between the wages of home workers and those of factory workers; he stated, in particular, that manufacturers had recently shown a tendency to reduce their factory staff and distribute work to home workers on a

[1] *Bulletin du Ministère du Travail*, April-May 1917.

[2] The cost-of-living index for Paris (1914 = 100) issued by the Cost-of-Living Research Board was 658 for the fourth quarter of 1937 (*Bulletin du Ministère du Travail*, October-November-December 1937).

[3] This Act, which provided for the reduction of the working week from 48 to 40 hours, without any reduction of weekly wages, resulted in a rise in hourly rates. In the department of the Seine, the wage increases of home workers varied between 10 and 20 per cent.

[4] *Journal Officiel*, 26 February 1937, p. 2486.

piece-rate basis — a system which they had found cheaper for the moment; and he concluded by announcing that a Bill was shortly to be introduced for the purpose of bringing section 33 (*d*) of Book I of the Labour Code, which provides that the minimum wages of home workers shall be based on a working day of eight hours, into harmony with the Forty-Hour Week Act.

The question came before the Superior Labour Council at its session of 16 November 1937, and two draft schemes were examined. The Council concluded by adopting the following resolution, which states in summary form the improvements which it considered necessary in the legislation regarding the minimum wages of home workers [1] :

" The Superior Labour Council calls upon the Administration :

" (1) to ensure the strict application of the legislation for the protection of the home workers mentioned in sections 33 *et seq.* of Book I of the Labour Code;

" (2) to simplify and accelerate the procedure for the extension of these provisions to other categories of home workers; it expresses the opinion that the benefits of social legislation as a whole should be extended :

" (*a*) to the workers mentioned in section 33 of Book I of the Labour Code;

" (*b*) to persons regularly and habitually working at home with their wives (husbands) and the children dependent upon them, with or without assistants, for the account of one or several employers. "

General Adjustment of Wages

Most of the collective agreements concluded do no more than lay down minimum-wage rates, not mentioning the percentage of increase which the new rates represent as compared with those previously paid. They do not, therefore, permit of comparison with the past, although, as stated in the enquiry on wages in France carried out in October 1936 and published by the Ministry of Labour [2], they provide a useful basis for future comparison, between the different regions, not only of the wages of ordinary workers, but also of those of categories about whose conditions of remunera-

[1] *Bulletin du Ministère du Travail*, October-November-December 1937.
[2] *Bulletin du Ministère du Travail*, January-February-March 1937.

tion little is known at present (bank and insurance employees, sales staff in shops, etc.).

A clearer estimate of the wage adjustments effected may be formed, however, by reference to the Matignon Agreement concluded on 7 June 1936, at the Prime Minister's Office, by the General Confederation of French Production and the General Confederation of Labour. This agreement, which provided for the conclusion of collective labour agreements, laid down at the same time the increases in real wages to be effected by the agreements over the levels prevailing on 24 May 1936; the percentage of increase varied between 7 and 15 per cent., the average being 12 per cent. Special provision was also made for the readjustment of abnormally low wages.

The percentages just quoted give only a very general indication of the changes which have taken place, and an estimate of the consequences of the agreement is rendered still more difficult by the changes which have taken place in the cost of living and in exchange rates.

Finally, mention should be made of other Acts, besides that concerning collective agreements, which were adopted in 1936 for the purpose of directly influencing workers' rates of pay. The Act of 20 June 1936, for instance, introduced holidays with pay in industry, commerce, the liberal professions, home work, and agriculture, while the Act of 21 June 1936 established a working week of 40 hours in industry and commerce, providing at the same time that this reduction of weekly hours, which constituted in fact an increase of about 20 per cent. in hourly rates, must not result in any reduction in the workers' standard of life.

Industrial Relations

Although generalisation about the effect of the new legislation relating to conciliation and arbitration upon industrial relations is difficult, it may be asserted that the passage of this legislation has been followed by a substantial decline in the number and intensity of strikes. The following declaration[1] made by Mr. Jacquier, Rapporteur in the Senate, regarding the Bill which subsequently became the Act of March 1938 concerning conciliation and arbitration procedure, is of interest in this connection :

" Arbitration has been practised on a wide scale for a little more than a year; between 1 January 1937 and 24 February 1938,

[1] *Journal Officiel*, 26 February 1938, p. 193.

1,431 umpires were appointed and 915 awards made. It cannot be said that this arbitration has given absolutely decisive results, since strikes, sometimes accompanied by illegal action, have not yet ceased altogether.

" According to information supplied to me by the Ministry of Labour at the end of May 1937—I have not been able to find out whether this information has since been confirmed or invalidated—arbitration procedure had at this date worked normally, and had prevented the stoppage of work before, during and after the proceedings in about half the total number of disputes.

" In the other half of the cases, strikes of shorter or longer duration had been declared, generally before the opening of the conciliation and arbitration proceedings. I say ' before ', because it very rarely happened that a strike followed an arbitration award; although the awards, compulsory under the Act, are not accompanied by penalties for violation, they have usually been observed...

" I do not consider, gentlemen—and this is my conclusion regarding the experience of the year—that the results obtained are unsatisfactory on the whole, since no one at present shows any opposition to the principle upon which the procedure is based. "

This statement may be compared with the figures quoted in the *Bulletin du Ministère du Travail* of July-August-September 1938 regarding the application of the Act of 4 March 1938, which showed that between 5 March and 1 October of that year 1,157 umpires were appointed by the Ministry of Labour, 1,634 awards were issued, and 177 umpires were appointed by the Superior Arbitration Court after the quashing of the original award. The same publication records that out of 6,199 disputes brought before departmental conciliation boards—i.e. subjected to the statutory conciliation and arbitration procedure—between 1 January 1937 and 30 April 1938, 2,640 were settled by agreement between the parties in accordance with the conciliation procedure without the necessity of resorting to arbitration.

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