



STATUTORY INSTRUMENTS.

**S.I. No. 359 of 2009**



EMPLOYMENT REGULATION ORDER (HOTELS JOINT LABOUR  
COMMITTEE), 2009

S.I. No. 359 of 2009

EMPLOYMENT REGULATION ORDER (HOTELS JOINT LABOUR COMMITTEE), 2009

WHEREAS the Labour Court (hereinafter called ‘the Court’), pursuant to the provisions of the Industrial Relations Acts, 1946-2004, made an Employment Regulation Order dated 19th May, 2008 (S.I. No. 149 of 2008) (hereinafter called ‘the said Order’) fixing the statutory minimum rates of remuneration and regulating the statutory conditions of employment of workers in relation to whom the Hotels Joint Labour Committee (hereinafter called ‘the Committee’) operates;

AND WHEREAS the Committee has submitted to the Court a proposal for revoking the said Order;

AND WHEREAS the Committee has also submitted to the Court the proposals set out in the Schedule hereto for fixing the statutory minimum rates of remuneration and regulating the statutory conditions of employment of workers in relation to whom the Committee operates;

AND WHEREAS the provisions of Section 48 of the Industrial Relations Act, 1990 have been complied with;

NOW, THEREFORE, the Court, in exercise of the powers conferred on it by Section 43(4) of the Industrial Relations Act, 1946, and by Section 48(4) of the Industrial Relations Act, 1990 hereby orders as follows:-

1. This Order may be cited as the Employment Regulation Order (Hotels Joint Labour Committee), 2009.
2. Effect is hereby given to the proposals set out in the Schedule hereto.
3. The provisions set out in the Schedule hereto shall have effect as from 16th September, 2009 and as from that date the said Order shall be revoked.

NOTE: Enquiries should be addressed to The Secretary, Joint Labour Committees, The Labour Court, Tom Johnson House, Haddington Road, Dublin 4 (Telephone 01-6136666, Extension Nos. 6639, 6641 and 6642. “Lo-call” number (if calling from outside(01)area)1890220228).

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 11th September, 2009.*

## SCHEDULE

### PART I

#### Workers to whom this Schedule applies

1. Workers employed in a hotel undertaking anywhere throughout the State except the County Borough of Cork and the areas known, until 1st January, 1994, as the County Borough of Dublin and the Borough of Dun Laoghaire by the persons carrying on that undertaking and who are engaged in any of the following work, that is to say:-

- (a) the preparation of food or drink;
- (b) the service of food or drink;
- (c) the provision of living accommodation;
- (d) the retail sale of goods;
- (e) work incidental to (a), (b), (c) or (d);
- (f) work performed at any office or at any store or warehouse or similar place.

#### BUT EXCLUDING

- (i) Managers, assistant managers, trainee managers, receptionists, head store men and housekeepers.
- (ii) Workers affected by a Registered Employment Agreement.

2. In this Schedule "hotel" means either:—

- (a) a premises registered in the register of hotels, under the provisions of the Tourist Traffic Acts, 1939 to 1998.

OR

- (b) a premises licensed under the Licensing Acts, 1833 to 1995 and having not less than 10 apartments normally available for the sleeping accommodation of travellers.

**PART II****STATUTORY MINIMUM RATES OF REMUNERATION****Section I****All hotel workers while training**

From 16th September 2009

(i) <u>Under 18</u>	€248.31
(ii) <u>Age 18 and over</u>	
1st one-third period (not exceeding 12 months)	€265.93
2nd one-third period (not exceeding 12 months)	€283.55
3rd one-third period (not exceeding 12 months)	€319.20
Following completion of 3rd period	€354.43

**Note:** Training is **formal structured training** as defined in accordance with Section 16 of the National Minimum Wage Act, 2000.

**SECTION II****Experienced Adult Hotel Worker**

From 16th September 2009

(i) <u>Cook</u>	
Trained	€354.43
Second Head Cook	€382.09
Head Cook	€399.99
(ii) <u>Waiter/Waitress</u>	€354.43
2nd Head Waiter/Waitress	€362.71
Head Waiter/Waitress	€373.11
(iii) <u>Barperson</u>	€354.43
2nd Head Barperson	€362.47
Head Barperson	€372.38
(iv) <u>House Assistant/General Worker*</u>	€354.43
(v) <u>Porter</u>	€354.43
2nd Head Porter	€362.71
Head Porter	€373.00

**\*Note:**

This rate applies to a worker able and willing, as required, to perform the general work of a hotel not covered in the other job descriptions herein, as part of normal duties.

**SECTION III****Hotel Workers not covered by Section I or II**

From 16th September 2009

(i) Under age 18	€248.31
(ii) First year after date of first employment over age 18	€283.55
(iii) Second year after date of first employment over age 18	€319.20

**Section IV****Board & Lodgings**

If a hotel employee receives board and lodgings, board only or lodgings only from his/her employer, the following amounts may be deducted from his/her pay:

€54.13	for full board and lodgings per week*, or €7.73 per day.
€32.14	for full board only per week*, or €4.60 per day.
€21.85	for lodgings only per week*, or €3.14 per day.

Full board means an entitlement to three meals a day in the hotel. No compensatory payments are due for not availing of this entitlement, with the exception of statutory entitlements.

\*Per week means a 7 day week.

**Service Charge**

Where service charge is distributed to an employee through the payroll, the amount so distributed can form part of the weekly earnings referred to above. This and other components which may be taken into account to determine an employee's average rate of pay are set down in Part 1 of the Schedule to the National Minimum Wage Act, 2000.

**NOTES:**

In calculating the statutory minimum rate of remuneration applicable to any of the workers specified in Sections I, II or III of this Part, the following provisions shall apply:-

1. A worker who has completed a full-time hotel training course of six months' duration, under the auspices of CERT or a Vocational Education Committee shall, on commencement of employment, be placed on the appropriate second year scale.

2. A worker who has completed a full-time training course of two years' duration, under the auspices of CERT or a Vocational Education Committee shall, on commencement of employment, be placed on the appropriate third year scale.

3. In any hotel where only junior staff of any of the following categories are employed — waiting, cooking and bar staff, house assistants and porter — the following provisions shall apply:-

(a) where four juniors are employed, one of the four shall be placed on the next higher scale.

(b) for each additional three juniors employed, one additional junior shall be placed on the next higher scale.

4. In any hotel where none of the cooking staff is on full rate, one of the cooks shall be paid a rate one year in excess of the highest prevailing rate of any of the cooking staff.

5. In the case of temporary staff employed in seasonal hotels, the season, or that part of the season during which the hotel is open, shall count as a full year for the purpose of calculating the appropriate rate of pay applicable the following season.

## PART III

### STATUTORY CONDITIONS OF EMPLOYMENT

Nothing in this Employment Regulation Order shall be taken to exclude, limit or be in any way inconsistent with the rights of any employee under any statutory enactment.

#### **Section I — Normal Working Hours**

1. During the season the normal working fortnight shall be any 10 days.
2. During the off-season the normal working fortnight shall be 10 days, calculated on the basis of alternate Sundays off.

The "Season" means the period commencing on the Sunday before Easter Sunday and ending on the last Sunday in September.

3. The normal number of hours for workers aged 18 years and over in any fortnight shall be 78 hours.

#### **4. Hours of work for young people:**

- (i) Young persons aged 14 and 15 may only be employed on holiday work (maximum of 35 hours per week and 7 hours per day) or on work experience (maximum of 40 hours per week and 8 hours per day). The normal number of hours for young persons aged 14 and 15 on holiday work shall be 70 hours in any fortnight, but must not exceed 35 hours per week and 7 hours per day, and for young persons on work experience shall be 78 hours in any fortnight, but must not exceed 40 hours per week and 8 hours per day.
- (ii) The normal number of hours for young persons aged 16 and 17 shall be 78 hours in any fortnight but must not exceed 40 hours in any week and 8 hours per day.

#### **Section II — Holidays**

1. All employees are entitled to paid annual leave in accordance with the provisions of the Organisation of Working Time Act, 1997, which include:

- (a) 4 working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which he or she changes employment),
- (b)  $\frac{1}{3}$  of a working week for each month in the leave year in which he or she works at least 117 hours, or
- (c) 8% of the hours an employee works in a leave year (but subject to a maximum of four working weeks).

2. Entitlement in respect of Public Holidays will be in accordance with the provisions of the Organisation of Working Time Act, 1997.

3. Six weeks' notice of intention to allow annual leave shall be given by employers to their workers.

4. Where a worker has worked on any public holidays throughout the year, the days off in lieu may be taken consecutively and added to the worker's annual leave.

### **Section III — Other Conditions Of Employment**

#### **Overtime Rates:**

1. Overtime shall be paid for at the rate of time-and-a-half. Overtime rates shall be calculated by reference to the hourly rate, which shall be the appropriate weekly rate without Board or Lodging divided by the declared normal number of hours worked per week.

2. A worker rostered to work night duty, which is not overtime, shall be compensated by the payment of an allowance equivalent to 20% of his/her basic pay.

#### **3. Sunday Work**

(i) Work performed on Sunday, shall be paid for at time and a third. The extra which is additional to normal pay will be based on the appropriate rates without Board or Lodging.

(ii) When an employee works on a Sunday which is in addition to the 78 hour rostered fortnight he/she shall be paid time plus one half of the rate without board or lodgings.

(iii) Where, on the coming into effect of this Order, a more favourable rate of payment in respect of Sunday working than those provided for in subparagraphs (i) and (ii) was payable to any worker, such rate shall continue to be payable to that worker unless otherwise agreed between both the Employer and the Employee and/or their Representatives. (Written records of any such Agreements must be retained by the Employer and copies given to the Employee and /or their Representatives).

#### **4. Finishing Time\***

(i) Workers shall be entitled each week throughout the year to either one early finishing night at 7.00 p.m. or two at 8.30 p.m.

(ii) Workers under 16 years of age shall not be required to work before 8.00 a.m. or after 8.00 p.m.

(iii) In general, 16 and 17 year olds cannot work between the hours of 10 p.m. and 6 a.m., except where the Minister is satisfied that



special circumstances exist and the day in question is not the day before a school day, in which case they may not work between the hours of 11 p.m. and 7 a.m.

### 5. Spreadover Duty

This issue is covered by the Organisation of Working Time Act, 1997. Compensatory rest allowances will be applied in accordance with that Act.

**\* Provisions 4(ii) and 4(iii) above may be modified in relation to the employment of close relatives in a family business.**

### 6. Breaks\*

(i) Workers under 16 years of age must have the following rest breaks:-

after each 4 hours:	half-hour
in each period of 24 hours:	14 consecutive hours
in any period of 7 days:	2 days off**

(ii) Workers over 16 and under 18 years of age must have the following rest breaks:-

after 4 and a half hours::	half-hour
in each period of 24 hours:	12 consecutive hours
in any period of 7 days:	12 consecutive hours

(iii) No adult worker shall be required to work continuously for more than 4 and a half hours without a break of at least 15 minutes, or for more than 6 hours without a break of at least 30 minutes.

**\* Provisions 6(i) and 6(ii) above may be modified in relation to the employment of close relatives in a family business.**

**\*\* As far as practicable, the days off are to be consecutive.**

### 7. Certificate of Service

Each worker shall be entitled to receive from his/her employer on termination of his / her employment a certificate of service showing the period for which he/she was employed and the standing of his/her employment at the date of termination.

### 8. Bullying / Harassment / Grievance / Disciplinary Procedures

Each employer will include, in the conditions of employment, details of the procedure to apply in the event of issues arising in relation to bullying/harassment, grievance and discipline. In this regard the codes of practice contained in S.I. No. 17 of 2002 (Bullying in the Workplace), S.I. No. 78 of 2002, Employment Equality Act, 1998 (Code of Practice) (Harassment) Order,

2002 and S.I. No. 146 of 2000 (Grievance and Disciplinary Procedures) are to be noted.

**Dismissal**

In the event of a dismissal, the procedures will include the warning stages to apply prior to dismissal and will make reference to verbal and written warnings and to the fact that, depending on the nature of the misconduct/performance, the preliminary stages of the procedures may be bypassed.

- (a) In the event of a summary dismissal, no decision will be taken until this matter has been fully investigated by management.
- (b) The procedures will also state that an employee may be represented, at any stage of the disciplinary procedure, by a colleague or Trade Union official of his/her choice.

An employee may wish to challenge a dismissal to a Rights Commissioner, the Labour Relations Commission, the Labour Court, the Equality Authority or the Employment Appeals Tribunal or may pursue the matter under common law.



Given under the Official Seal of the Labour Court,  
10 September 2009.

KEVIN DUFFY,  
Chairman.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

This instrument fixes statutory minimum rates of pay and regulates statutory conditions of employment as from 16th September, 2009 for workers employed in a hotel undertaking anywhere throughout the State **except the County Borough of Cork and the areas known, until 1st January, 1994, as the County Borough of Dublin and the Borough of Dun Laoghaire.** It is made by the Labour Court on the recommendation of the Hotels Joint Labour Committee.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
GOVERNMENT PUBLICATIONS SALE OFFICE  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,  
or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,  
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)  
or through any bookseller.

---

€3.05

