



STATUTORY INSTRUMENTS.

S.I. No. 374 of 2009



EMPLOYMENT REGULATION ORDER (RETAIL GROCERY AND
ALLIED TRADES JOINT LABOUR COMMITTEE) 2009

EMPLOYMENT REGULATION ORDER (RETAIL GROCERY AND ALLIED TRADES JOINT LABOUR COMMITTEE) 2009

WHEREAS the Labour Court (hereinafter called “the Court”), pursuant to the provisions of Section 48 of the Industrial Relations Act, 1990 (hereinafter called “the Act”), made an Employment Regulation Order (Retail Grocery and Allied Trades Joint Labour Committee) 2008, dated 25th January, 2008, (S.I. No. 5 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 Retail Grocery and Allied Trades 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 Act have been complied with;

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

- (1) This Order may be cited as the Employment Regulation Order (Retail Grocery and Allied Trades 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 25th October 2009 and as from that date the said Order shall be revoked.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 18th September, 2009.

SCHEDULE

PART I

WORKERS TO WHOM THIS SCHEDULE APPLIES

1. All workers employed anywhere throughout the State in any undertaking or any branch or department of an undertaking being an undertaking, branch or department engaged wholly or mainly in the retail grocery and allied trades and who are engaged on any of the following duties, that is to say:

- (a) operations in or about the shop or other place where the sale by retail aforesaid is carried on being operations for the purpose of such sale or otherwise in connection with such sale;
- (b) clerical or other office work carried on in conjunction with the sale by retail aforesaid and relating to such sale or to any of the operations in (a) of this sub-paragraph.

BUT EXCLUDING

(1) independent off-licences and shops exclusively for the sale of bread and flour confectionery;

(2) beef butchers and apprentice beef butchers;

(3) workers to whom another Employment Regulation Order made as a result of proposals received from another Joint Labour Committee applies;

(4) workers affected by an employment agreement, that is an agreement relating to the remuneration or the conditions of employment of workers of any class, type or group made between a trade union of workers and an employer or trade union of employers or made at a meeting of a registered Joint Industrial Council between members of the Council representative of workers and members of the Council representative of employers, provided that the remuneration and conditions of employment are not less favourable than those set out in the Employment Regulation Order made as a result of proposals received from the Joint Labour Committee for the Retail Grocery and Allied Trades;

(5) workers to whom a Registered Employment Agreement applies, provided that the remuneration and conditions of employment provided for in the Registered Employment Agreement are not less favourable than those provided for in the regulation order made as a result of proposals received from the Joint Labour Committee for the Retail Grocery and Allied Trades;

(6) Managers, Assistant Managers and Trainee Managers.

2. For the purposes of this schedule “the retail grocery and allied trades” consist of the sale by retail of:

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- (a) bacon, ham, pressed beef, sausages, or meat so treated as to be fit for human consumption without further preparation or cooking but does not include the sale, by retail, of other meat;
 - (b) all other food (including bread or flour confectionery, articles of sugar confectionery and chocolate confectionery and ice cream) or drink for human consumption other than for immediate consumption on the premises at which the sale is effected;
 - (c) tobacco, cigars, cigarettes, snuff and smokers' requisites.
3. For the purpose of this schedule:
- (a) in determining the extent to which an undertaking or branch or department of an undertaking is engaged in a trade or group of trades, regard shall be had to the time spent in the undertaking, branch or department on work in those trades;
 - (b) an undertaking or branch or department of an undertaking which is engaged in any operation in a trade or group of trades shall be treated as engaged in those trades.

PART II

DEFINITION OF JOB CLASSES AND STATUTORY MINIMUM RATES OF REMUNERATION PER WEEK/PER HOUR.

1. Classes of workers

(a) General Sales Assistant

A worker who is wholly or mainly engaged in one or a combination of the following duties; serving customers, accepting payment for goods, operating cash register system, receiving, checking and stocking merchandise, stock taking, stock listing, stock checking and price checking, preparation of food for subsequent sale, packing stock, displaying stock, pricing stock, rotating stock and merchandising stock.

(b) General Ancillary Worker

A worker whose duties are confined to the following; collection, distribution, control of shopping trolleys and baskets, packing of customers' purchases, tidying, sweeping and cleaning etc.

(c) Clerical Worker

A person wholly or mainly engaged in clerical or other office work carried out in establishments covered by the Employment Regulation Order.

(d) Posts of Responsibility

A person is designated to be the holder of a Post of Responsibility if he/she has been designated by the employer to be responsible for the work of other staff or for the operation of a shop or of a department within a premises as defined within the Establishment Order.

2. Statutory Minimum Rates of Remuneration

(a) General Sales Assistant and (c) Clerical Worker	From 25th October 2009		From 25th October 2010 (for 3 months)	
	Per Hour	Per Week	Per Hour	Per Week
-				
Under Age 18	€6.56	€255.84	€6.72	€262.08
Job Entrant: First year after date of first employment over age 18	€7.49	€292.11	€7.68	€299.52
Second year after date of first employment over age 18	€8.43	€328.77	€8.64	€336.96
Experienced Adult Worker				
Point 1	€9.36	€365.04	€9.59	€374.01
Point 2	€9.46	€368.94	€9.70	€378.30
Point 3	€9.66	€376.74	€9.90	€386.10

Note: Progression up the scale will be on the anniversary of the commencement of employment.

(b) General Ancillary Worker	From 25th October 2009		From 25th October 2010 (3 months)	
	Per Hour	Per Week	Per Hour	Per Week
-				
Under Age 18	€6.56	€255.84	€6.72	€262.08
Job entrant: First year after date of first employment over age 18	€7.49	€292.11	€7.68	€299.52
Second year after date of first employment over age 18	€8.43	€328.77	€8.64	€336.96
Experienced Adult Worker	€9.36	€365.04	€9.59	€374.01
(d) Post of Responsibility 7.5% differential over the maximum point of the General Sales Assistant Scale	€10.38	€404.82	€10.64	€414.96

PART III

STATUTORY CONDITIONS OF EMPLOYMENT

Section I — Normal Working Hours

The normal number of hours to be worked by workers in relation to whom the Committee operates shall be 39 hours per week. In relation to workers under the age of 18, the provisions of the Protection of Young Persons (Employment) Act, 1996 shall apply.

Any change in normal rostered hours will be notified one week in advance.

Section II — Overtime Rates

Overtime rates to apply as follows;

Up to Midnight — Time and a half (Monday - Saturday)

Midnight to 7.00 a.m. — Double time

Sunday as overtime — Double time

Public holiday as overtime — Double time.

Workers are required to work in excess of 8 hours per day, or 39 hours per week, to qualify for overtime rates. (Time off in lieu may apply by agreement).

Section III — Unsocial Hours (Time worked as part of roster)

Midnight to 7.00 a.m. — premium of time-and-one-quarter.

Sundays — premium of time-and-one-third.

Section IV — Holidays

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

Entitlements to public holidays are as follows:- Christmas Day, St. Stephen's Day, New Year's Day, St. Patrick's Day, Easter Monday, First Monday in May, First Monday in June, First Monday in August and Last Monday in October.

Section V — Breaks

No worker shall be required to work continuously for more than $4\frac{1}{2}$ hours without a **paid** break of at least 15 minutes, exclusive of main meal breaks.

Employees whose hours of work include the hours from 11.30 a.m. to 2.30 p.m. are entitled to a break of at least 1 hour after 6 hours of work in accordance with the provisions of S.I. 57/1998.

In relation to workers under the age of 18, the provisions of the Protection of Young Persons (Employment) Act, 1996 shall apply.

Section VI — Certificate of Service

A certificate of service shall be given on request by employers when a worker is leaving but it is recognised that there will be no compulsion on a future employer to give incremental credit for this service.

Section VII — Sick Pay Scheme

1. The Sick Pay Scheme will be a non-contributory scheme.
2. No payment will be made for the first 3 days of any absence.
3. The employer is to be contacted within 1½ hours of the employee's normal starting time on the first day of absence.
4. A doctor's certificate, signed by a medical practitioner, is required on the third day of absence specifying the nature of the illness, and weekly thereafter.
5. At the choice of the employer, the sick pay scheme will apply on a calendar year basis, either from 1st January to 31st December or from 1st April to 31st March, with no transfer of benefit from one year to the next. Individual employees will be eligible for benefit under the scheme after 2 years' continuous service.
6. The Scheme will apply to full-time staff, and part-time staff on a pro rata basis, with the exception of ancillary workers in either category.
7. Under the Scheme all full-time workers, and part-time workers on a pro rata basis, who qualify will be entitled to 3 weeks' basic pay.
8. Any employee found to be abusing the Sick Pay Scheme will be subject to the full disciplinary procedures up to and including dismissal.
9. The employer will reserve the right to refer an employee for an assessment by the Company doctor. The cost of the referral will be met by the employer.
10. The Sick Pay Scheme will not cover absences relating to the following:
 - Traffic accident(s)
 - Substance abuse

— Dangerous sports (i.e. Martial Arts, mountaineering, skiing, parachuting, flying as a hobby, hang-gliding)

— injuries sustained while working for another employer.

11. Entitlements under the Sick Pay Scheme would be applied on the following basis:

For part-time staff

After 2 years' service: 3 weeks' basic pay on a pro rata basis, less social welfare.

(Pay will be based on average of preceding 13 weeks worked for part-time staff).

For full-time staff

After 2 years' service: 3 weeks' basic pay, less social welfare, for full-time staff.

Payments will only be made when absence is medically certified.

It will be the responsibility of the employee to claim Social Welfare entitlements while on sick leave.

Section VIII — 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

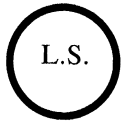
In the event of a dismissal, the procedures will include the warning stages to apply prior to dismissal and will make reference to verbal and written warnings and to the fact that, depending on the nature of the misconduct/performance, the preliminary stages of the procedures may be bypassed.

- (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.

Section IX — General

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.



Given under the Official Seal of the Labour Court,
16 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 minimum rates of pay and regulates statutory conditions of employment as from 25th October, 2009 for workers employed in the Retail Grocery and Allied Trades. It is made by the Labour Court on the recommendation of the Retail Grocery and Allied Trades Joint Labour Committee.

NOTE: Enquiries should be directed 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) 1890 220 228).

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