



STATUTORY INSTRUMENTS.

**S.I. No. 602 of 2010**



EMPLOYMENT REGULATION ORDER (AGRICULTURAL WORKERS  
JOINT LABOUR COMMITTEE) 2010

EMPLOYMENT REGULATION ORDER (AGRICULTURAL WORKERS  
JOINT LABOUR COMMITTEE) 2010

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 23th April, 2010 (S.I.No.164 of 2010) (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 Agricultural Workers 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 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 Relation 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 Relation Act, 1946 and Section 48(4) of the Industrial Relations Act, 1990, hereby Orders as follows:

(1) This Order may be cited as the Employment Regulation Order (Agricultural Workers Joint Labour Committee), 2010.

(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 31st December, 2010 and as from that date the said Order shall be revoked.

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, 6640 6641 and 6642. “Lo-Call” number (if calling from outside (01) area) 1890 220 228).

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 17th December, 2010.*

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## PART I — SCOPE AND DEFINITIONS

It is the sole and exclusive role of the Agricultural Workers Joint Labour Committee to collectively negotiate the minimum rates of pay and conditions of employment for Agricultural Workers, in accordance with Section 42 of the Industrial Relations Act, 1946.

The minimum hourly rates of pay and conditions of employment laid down in the Employment Regulation Order will apply to all Agricultural Workers as defined below, except those whose rates of pay and conditions of employment are regulated by a registered employment agreement.

### Definitions:

- (a) “Agricultural Employer” means a person who employs other persons as Agricultural Workers.
- (b) “Agricultural Worker” means a person employed under a contract of service or apprenticeship whose work under the contract is or includes work in agriculture, but does not mean a person whose work under such contract is mainly domestic service.
- (c) “Agriculture” means horticulture, the production of any consumable produce, which is grown for sale or for consumption or other use, dairy farming, poultry farming, the use of land as grazing, meadow or pasture land or orchard or osier land or woodland, or for market gardens, private gardens, nursery grounds or sports grounds, the caring for or the rearing or training of animals and any other incidental activities connected with agriculture.
- (d) “Trade Union Representation” means representations by officials and representatives of trade unions made solely on behalf of trade union members in respect of the proper implementation or non implementation of the terms and conditions set out in this Employment Regulation Order, including matters arising from the operation of a grievance, disciplinary or bullying and harassment procedure.

For the avoidance of doubt the term ‘Trade Union Representation’ does not mean any form of recognition of trade unions for the purposes of collective representation or bargaining, which is not provided for in the Employment Regulation Order.

## PART II — STATUTORY MINIMUM HOURLY RATES OF PAY

### Section 1. Agricultural Workers Minimum Hourly Rates

|                          | From 31/12/10 | From 1/07/11 |
|--------------------------|---------------|--------------|
| Experienced Adult Worker | €9.10         | €9.33        |
| Under Age 18 (70%)       | €6.36         | €6.52        |

An Experienced Adult Worker will be over the age of 18 and have completed the three (3) month probationary period.

### Section 2. New Entrant Minimum Hourly Rates

| Entry Rate         | From 31/12/10 | From 1/07/11 |
|--------------------|---------------|--------------|
| For 3 month period | €8.65         | €8.65        |

The Entry Rate may be paid for the first three months of employment at 90% of the Experienced Adult Worker rate but shall be no less than the National Minimum Wage rate.

### Section 3. Structured Training Minimum Hourly Rate.

The Structured Training Minimum Hourly Rates are provided to ensure that Trainee Workers earnings cannot fall below the average hourly rates provided for in this section.

| Trainee Worker       | From 31/12/10 | From 1/07/11 |
|----------------------|---------------|--------------|
| 0-3 months (80% MHR) | €7.28         | €7.46        |
| 4-6 months (90% MHR) | €8.19         | €8.40        |

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

### Productivity Pay

Agricultural Employer's may pay Agricultural Workers on a productivity or output basis measured in units of output or weight.

However, if the payment system is based on productivity, it is the Agricultural Employer's responsibility to ensure that the average hourly rate of pay does not fall below the Statutory Minimum Hourly Rates as set out in this order.

The gross earnings are divided by the hours of work to calculate the average hourly rate of pay for a Pay Reference Period, not exceeding one calendar month, as provided for in Section 10, Part II of the National Minimum Wage Act, 2000.

If the worker's earnings based on productivity or output fall below the Minimum Hourly Rates, the employer must 'make up' the earnings to the Statutory Minimum Hourly Rates, as set out in this order.

Rest Periods are not included in working hours for the purpose of calculating the average hourly rate.

**Payment of Wages**

Agricultural Workers shall be paid on a weekly basis.

**Board and Lodgings**

If a worker 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.

\*Per week means a 7 day week

## PART III — GENERAL CONDITIONS OF EMPLOYMENT

### **Flexible Working Week**

The Agricultural Industry includes a wide variety of activities, which are weather dependant, seasonal, unpredictable and often require 7 day week flexible working arrangements.

### **Weekly Working Hours**

The normal hours of work for workers covered by the Employment Regulation Order will be between minimum 30 hours and maximum 48 hours per week. The maximum rostered hours of work in a week of up to 6 days will be 48 hours. However, the hours of work may exceed 48 hours per week where the average number of hours worked in a 'reference period' of 6 months does not exceed 48 hours per week. The Agricultural Employer must ensure that this arrangement is administered in compliance with Section 15, Part II, Organisation of Working Time Act, 1997.

### **Rostered Days Off**

Workers will be rostered at least one day off in a seven-day week and the roster will be prepared at least one week in advance. Every third week the worker must have a weekend off (Saturday and Sunday), which is a 5 day working week (Monday to Friday). If a worker is required to work on a rostered day off, it must be on a voluntary basis.

### **Premium Time**

In the event that a worker is required to work in excess of 48 hours per week or on a Rostered Day Off or on a Sunday then premium time of time and one third will apply to hours worked.

### **Rest Periods**

The rest periods specified for workers in Sections 11,12 and 13 of the Organisation of Working Time Act, 1997 shall not apply to Agricultural Workers. Employers must ensure that Agricultural Workers have equivalent compensatory rest periods and breaks available to them in accordance with the guidelines set out in the S.I. No. 44/1998 — Organisation of Working Time (Code of Practice on Compensatory Rest and Related Matters) (Declaration) Order, 1998.

All of the above arrangements will be administered in compliance with the Organisation of Working Time Act, 1997.

The Protection of Young Persons (Employment) Act, 1996 will apply to workers under the age of 18 particularly in respect of working time and rest breaks.

### **Leave Entitlements**

#### **Annual Leave**

Holidays will be accrued in accordance with Section 19 of the Organisation of Working Time Act, 1997:

**Full-time**

4 working weeks in a leave year in which he/she works at least 1,365 hours (1365 / 39 = 35 weeks).

**Temporary**

One third of working week for each month in the leave year in which he/she works at least 117 hours (117 / 39 = 3 weeks).

**Part-time**

8% of the hours he/she works in a leave year, subject to a maximum 4 working weeks. The worker's entitlement is to the greater leave period as calculated by any of the three formulae in this paragraph.

**Leave Administration**

- (a) For the purposes of calculating holiday pay, no deductions will be made for benefits provided by the employer but not enjoyed by the worker whilst on annual leave, for example board.
- (b) If a worker is ill while on annual leave and provides a medical certificate in respect of the illness to the employer, then the period will be regarded as absence through illness and not deducted from annual leave entitlement.
- (c) A worker who has 8 or more months of service will be entitled to an unbroken period of 2 weeks annual leave.
- (d) When calculating the two working week period, public holidays and periods of illness will be disregarded.
- (e) A worker will be regarded as having worked on a day of annual leave the hours he/she would have worked on that day, had it not been a day of annual leave.

All leave arrangements must have prior approval of the employer. A leave request must be submitted for approval in advance at least one week for one days leave, six weeks for two weeks leave.

**Cesser Pay**

On the termination of a contract of employment, the worker will be paid in accordance with Part II and Part III of this order, for any accrued holiday entitlement outstanding at the end of the contract.

**Public Holidays**

Public Holidays will be provided for in accordance with the Organisation of Working Time Act, 1997. The nature of the industry requires that employees work on Public Holidays. In this event employees will be paid for the work done, plus an additional day's pay or an additional day's holiday.

**There are 9 Public Holidays:**

New Years Day (1st January)  
 St. Patrick's Day (17th March)  
 Easter Monday  
 First Monday in May  
 First Monday in June  
 First Monday in August  
 Last Monday in October  
 Christmas Day (25th December)  
 St. Stephen's Day (26th December)

Part-time and short-time workers must have worked for at least 40 hours in the 5 weeks before the public holiday to qualify for public holiday benefit.

**Bereavement Leave**

In the event that a worker suffers bereavement in their immediate family, paid leave will be granted as follows:

Husband, wife, partner, son, daughter, mother, father, brother, sister 3 days  
 Grand-parents, mother-in-law, father-in-law, grand-children 1 day

All Bereavement Leave must be approved by the Employer. The worker may be required to provide appropriate documentation to support a request for Bereavement Leave.

**Sick Pay Scheme**

All Agricultural Workers having a minimum 6 months service with their current employer will be entitled to payment during periods of illness.

On the first day of the illness the worker must report their absence to his/her Supervisor/Manager before the normal start time or within the first hour of the missed shift.

A valid medical certificate, specifying the nature of the illness and expected date of return to work, must cover absence in excess of three days. (A copy of a social welfare certificate is a valid certificate).

All subsequent medical certificates must be submitted on a weekly basis thereafter for the duration of the illness.

A worker found to be abusing the sick pay scheme will be subject to disciplinary procedures up to and including dismissal.

The employer reserves the right to refer a worker for an assessment by a nominated doctor. The employer will meet the cost of the referral. The worker will be entitled to the following benefits and payment will be from day one of the absence.

|                      | <b>From 31/12/10</b>           | <b>From 1/07/11</b>               |
|----------------------|--------------------------------|-----------------------------------|
| 1-6 months service   | No entitlement                 | No entitlement                    |
| 6-12 months service  | 5 working days @ €20 per day.  | 5 working days @ €20.50 per day.  |
| 13-24 months service | 10 working days @ €20 per day. | 10 working days @ €20.50 per day. |
| 25+ months service   | 15 working days @ €20 per day. | 15 working days @ €20.50 per day. |

The above daily rates will be increased in line with increases in the Statutory Minimum Rates in Part II of this Order.

The worker is responsible for claiming Disability Benefit from the Department of Social and Family Affairs where it is applicable.

The employer shall not be entitled to make any deductions from the Sick Pay of worker in respect of any such Disability Benefit received by the worker.

The Sick Pay Scheme does not cover absences arising or relating to the following:

- Failure to provide medical certificates for absence in excess of three days,
- Injury suffered as a result of failure to comply with safety rules,
- Disability during a period of 'lay off',
- Disability as a result of use of illicit drugs,
- Injury normally excluded by standard insurance conditions, e.g. dangerous sports, self inflicted injury,
- Injury sustained while working for another employer.

## PART IV — EMPLOYMENT POLICIES AND PROCEDURES

### **Statement of Terms and Conditions of Employment**

Workers will be provided with a written statement of the terms and conditions of employment in accordance with the Terms of Employment (Information) Acts, 1994 to 2001 and which will include a copy of the most recent Employment Regulation Order for the Agricultural Industry.

### **Employment Records and Procedures**

The Agricultural Employer is responsible for setting up a system to record hours of work, payment of wages and calculating average hourly rates of pay and retaining a copy of such records as is prescribed under legislation.

Workers must be provided with a written statement of wage payments. The statement must include a break down of all Gross Pay or Productivity pay calculations, which may include:

- Hours worked,
- Hourly Rate Per Hour,
- Productivity Bonus Pay and calculations,
- “Make up” Pay, (for productivity payment if appropriate),
- Holiday Pay,
- Sick Pay,
- Sunday Premium and Premium days Pay.

and deductions from Gross pay, for example:

- Tax,
- Social Insurance,
- Union Subscription, where applicable,
- Board and lodgings,
- Pension.

Statutory deductions from pay are income tax, social insurance and statutory levies, other deductions must have the written authorisation of the worker and written statements of wages (pay slips) must be provided in accordance with the Payment of Wages Act, 1991.

### **Worker Right to Trade Union Representation**

The Agricultural Employers accepts the right of Agricultural Workers to be represented by a Trade Union.

With regard to the scope and practical interpretation of Trade Union Representation, Schedule “A” outlines the procedures that give effect to such Trade Union Representation.

**Employers Rights and Responsibilities:**

The Agricultural Employer has the sole and exclusive right and responsibility for the effective management of the farm.

The management’s rights and responsibilities include the following functions:

- 1) To plan, organise and manage its operations to achieve objectives and performance standards.
- 2) To determine the number of workers, skills, qualifications or experience required for the operations.
- 3) To select, employ and promote workers.
- 4) To discipline and/or discharge workers for just cause and through agreed procedure.
- 5) To introduce new systems of work, equipment and machinery, technology, facilities, products or to change patterns of work.

**Grievance Procedure**

It is important to promote a good working relationship based on trust and co-operation. However, issues and misunderstandings will occur in the normal course of interaction in the workplace. It is accepted that failure to provide a procedure to deal adequately with these grievances, will inevitably lead to disputes affecting not only the aggrieved party but also all those employed on the farm/location. Agricultural Employers shall be required to have a Grievance Procedure in place which complies with principles set out in the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000. S.I. No. 146/2000. Where no separate Grievance Procedure is in place, the Grievance Procedure set out at Schedule “B” shall apply.

**Disciplinary Procedure**

Agricultural Employers shall be required to have a Disciplinary Procedure in place which complies with principles set out in the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000. S.I. No. 146/2000. Where no separate Disciplinary Procedure is in place, the Disciplinary Procedure set out at Schedule “C” shall apply.

**Bullying and Harassment**

Agricultural Employers shall be required to have a Prevention of Bullying and Harassment Policy in place which complies with principles set out in the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000 — S. I. No.146/2000, Industrial Relations

Act, 1990 (Code of Practice Detailing Procedures For Addressing Bullying in The Workplace) (Declaration) Order, 2002 — S.I. No.17/2002, Employment Equality Act, 1998 (Code of Practice) (Harassment) Order, 2002 — S.I. No. 78/2002. Where no separate Policy is in place, the Prevention of Bullying and Harassment Policy set out at Schedule “D” shall apply.

**Health and Safety**

Employers must prepare a Safety Statement in compliance with the Safety, Health and Welfare at Work Act, 2005 and the Code of Practice for Preventing Injury and Occupational Ill Health in Agriculture — November, 2006. It is acknowledged that both employers and employees have responsibilities for safety in the work place. In this regard the following Code of Practice is noted:- “Guidelines on Safety Representatives and Safety Consultation”.

Employers must provide free of charge appropriate Personal Protective Equipment.

**SCHEDULE — A**

The term “Trade Union Representation” should be interpreted as follows:

Trade Union Representation means representations by officials and representatives of trade unions made solely on behalf of trade union members in respect of the proper implementation or non implementation of the terms and conditions set out in this Employment Regulation Order, including matters arising from the operation of a grievance, disciplinary or bullying and harassment procedure.

For the avoidance of doubt, the term ‘Trade Union Representation’ does not mean any form of recognition of trade unions for the purposes of collective representation or bargaining, which is not provided for in this Employment Regulation Order.

**Union Access to Workers**

The Agricultural Employers should cooperate with Trade Union Officials to provide reasonable access to Agricultural Workers.

The arrangements for access will be subject to approval by management and will not interfere with the normal working of the Agricultural Employer.

For practical purposes, the cooperation on union access will include:

- The opportunity to meet with Agricultural Workers, at their place of employment;
- Accommodation of meetings on site if practical;
- Trade union officials will contact and advise the Agricultural Employer in writing notifying their intention to meet with the workers on site/location and at least five days prior notice will be given;
- Trade union officials will advise the local farmer/management when they arrive on the site/location to meet with the workers;
- Meetings arranged by trade union officials will only be attended by Agricultural Workers.

It is accepted by the Agricultural Employers that the on-site Union Representatives should not be dismissed or suffer any unfavourable change in their conditions of employment or unfair treatment, including selection for redundancy, because of their status or activities as union representatives or suffer any action prejudicial to their employment because of their status or activities as union representatives.

Union Representatives must carry out their duties in a professional and responsible manner with due regard to the safe and efficient operation of the farm/location.

### **Deductions at Source**

The Agricultural Employers will deduct union contributions at the appropriate rate and remit the contribution to the union on a monthly basis.

The union must provide letters of authorisation signed by the union members in respect of the deductions to be made. The union will be responsible for administrative issues, such as, arrears, under payments or refunds.

### **Facilities for Union Representatives**

Union Representatives should be afforded reasonable time off without loss of pay for carrying out their representative functions. If they require time off work, they should obtain prior permission from the employer and the question of payment of wages should be discussed and agreed.

Reasonable time-off may include:

- Participation on the Agricultural Joint Labour Committee,
- Training courses which relate to their role as union representatives and health and safety issues,
- Attendance at recognised Trade Union conferences and national meetings,
- Time-off must not interfere with the worker completing their normal duties and must have the employer's prior approval.

### **Other Involvement**

Any Agricultural Employer is free to enter into broader arrangements with any trade union/s beyond the Trade Union Representation provided for in this Employment Regulation Order.

**SCHEDULE — B****Grievance Procedure**

The procedure does not prevent the worker from informally raising any issue or problem with the employer, to resolve problems/issues without involving formal procedures. The following grievance procedure is for use by all workers to whom this Employment Regulation Order applies and is intended to deal with problems/issues through communication and cooperation.

**Stage 1**

When a worker has a grievance, s/he must meet face-to-face with the person with whom s/he has the grievance to discuss her/his concern. In circumstances, where the worker finds it difficult to approach the person directly, they may bring the issue to the attention of the Employer/Manager or a work colleague or the Union Representative.

**Stage 2**

If the issue/problem is not resolved in two weeks, the worker may involve a Union Official in an effort to resolve the issue.

**Stage 3**

If the issue/problem cannot be resolved with the involvement of the Employer and Union Official, the worker has the right to refer the matter, if appropriate, to a Rights Commissioner or Employment Appeals Tribunal, Labour Relations Commission, Labour Court, Equality Tribunal or any other agreed third party.

## SCHEDULE — C

### **Disciplinary Procedure**

Workers may become liable for disciplinary action because of failure to comply with normal standards of performance, attendance or conduct. The maintenance of standards and performance is the responsibility of the manager/employer and the disciplinary procedure will be used to help workers whose performance falls below the standard that is required.

The manager/employer must:

- Clearly outline where the worker is falling below the expected performance/standard.
- Identify the action or improvement required from the worker.
- Provide the opportunity for the worker to improve.
- Organise the appropriate training and support.

Individual workers are entitled to be represented by a work colleague or Trade Union Representative at each stage of the disciplinary procedure. The following procedure will apply:

### **Counselling**

At a counselling session it will be made clear to the employee the conduct/level of performance that is expected from them. This step is not considered part of the formal disciplinary procedure.

### **Verbal Warning**

The worker will initially be given a verbal warning that will be recorded on the worker's personnel record and will remain effective for a period of 3 months.

### **First Written Warning**

In the event of a further breach of conduct, poor attendance or lapse from performance, the worker will be given a written warning. This warning will be recorded on the worker's personnel record and will remain effective for a period of 6 months.

### **Final Written Warning**

In the event of yet a further breach the worker will be given a final written warning. The final written warning will remain effective for a period of 12 months. In appropriate cases suspension without pay for a period up to 5 days may be considered as part of the disciplinary action.

### **Dismissal**

Following a period of a final written warning or suspension without pay, if a worker is guilty of further breaches of discipline or procedures, the worker may be dismissed.

### **Gross Misconduct**

In cases of gross misconduct the worker may be dismissed following investigation but without following the above steps: Example of gross misconduct are:

- Theft or unauthorised possession of any property.
- Malicious damage to employer's property.
- Falsification of reports, accounts, expense claims or self-certification forms.
- Refusal to carry out duties or reasonable instructions.
- Intoxication by reason of alcohol or drugs.
- Having alcoholic drink or illegal drugs at your place of work.
- Bullying/sexual or racial harassment.
- Serious breach of company rules, particularly health and safety rules.
- Violent, dangerous or intimidatory conduct.

### **Disciplinary Investigation**

When an incident occurs, it may be appropriate to suspend a worker /workers from duty to ensure that a thorough investigation can be held into the circumstances. In such cases any period of suspension will be with pay.

Disciplinary investigations should comply with the principles of 'natural justice'.

The worker must be presented with the case against her/him and allowed an opportunity to answer the case.

The employer must hear the case and form a judgment after having considered all the facts disclosed.

The worker must be provided with the opportunity for representation, including Trade Union Representation, in any discussion/meeting with management.

Following investigation of any matter under this clause, the employer may decide to impose another form of discipline, such as suspension without pay and/or final written warning.

### **The Right of Appeal**

At any stage workers involved in the disciplinary procedure have the right to appeal a disciplinary decision. The employer may request that an appeal be in writing, clearly identifying the grounds for challenging the disciplinary decision.

If the worker is unhappy with the outcome of the process, she/ he retains the right to appeal the decision to an external third party, e.g. Rights Commissioner, Employment Appeals Tribunal, Labour Relations Commission, Labour Court, Equality Tribunal or any other agreed third party.

## SCHEDULE — D

### **Prevention of Bullying and Harassment Policy**

It is the employer's intention to provide a working environment free of offensive or unwelcome conduct, whether verbal, physical or visual.

### **Definition**

The definition of workplace bullying is as follows:

“Workplace Bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, a once off incident, is not considered to be bullying.”

Source: Report of the Task Force on the Prevention of Workplace Bullying March, 2001.

### **Informal Procedure**

There should be an attempt made to address an allegation of bullying as informally as possible. The objective of this approach is to resolve the difficulty with the minimum of conflict and stress for the individuals involved.

Any worker who believes he or she is being bullied should explain clearly to the alleged perpetrator(s) that the behaviour in question is unacceptable.

In circumstances where the worker finds it difficult to approach the alleged perpetrator(s) directly, he or she should seek help and advice, on a strictly confidential basis, from a contact person who is unconnected with the issue in question. The contact person could be a colleague, a Trade Union official, the Supervisor or Manager/Employer.

In this situation the contact person should listen patiently, be supportive and discuss the various options open to the worker concerned.

The worker may request the assistance of the contact person in raising the issue with the alleged perpetrator(s). In this situation the approach of the contact person should be by way of a confidential, non confrontational discussion with a view to resolving the issue.

The worker may decide, for whatever reason, to bypass the informal procedure. This choice should not reflect negatively on the worker in the formal procedure.

The parties may also be offered mediation. The parties can only enter mediation on a voluntary basis. Mediation is confidential between the parties and the only report back to management will be if agreement has been reached or not.

**Formal Procedure**

If an informal approach is inappropriate or if after the informal stage, the bullying persists, the following formal procedures should be invoked:

The worker should make a formal complaint in writing to the 'contact person'. The statement should be confined to precise details of actual incidents of bullying.

The alleged perpetrator(s) should be notified in writing that an allegation of bullying has been made against them. They should be given a copy of the complainant's statement and advised that they shall be afforded a fair opportunity to respond to the allegation(s).

The complaint should be subject to an initial examination by the Employer with a view to determining an appropriate course of action. An appropriate course of action at this stage, for example, could be exploring a mediated solution or a view that the issue can be resolved informally. Should either of these approaches be deemed inappropriate or inconclusive, a formal investigation of the complaint should take place with a view to determining the facts and the credibility or otherwise of the allegation(s).

**Investigation**

The investigation should be conducted by either the Employer or, if deemed appropriate, an agreed third party. The investigation should be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the alleged perpetrator.

The investigator should meet with the complainant and alleged perpetrator and any witnesses or relevant persons on an individual confidential basis with a view to establishing the facts surrounding the allegation. A trade union representative or work colleague may accompany either the complainant and / or the alleged perpetrator.

Every effort should be made to carry out and complete the investigation as quickly as possible and preferably within an agreed time frame. On completion of the investigation, the investigator should submit a written report to management containing the findings of the investigation.

Both parties should be given the opportunity to comment on the findings before management decides upon any action.

The complainant and the alleged perpetrator should be informed in writing of the findings of the investigation.

**Management Action**

Should management decide that the complaint is well founded; the alleged perpetrator should be given a formal interview to determine an appropriate course of action. Such action could, for example, involve counselling and/or monitoring or progressing the issue through the disciplinary or grievance procedure.

If either party is unhappy with the outcome of the investigation, the issue may be processed through the normal industrial relations mechanisms.

**Confidentiality**

All individuals involved in the procedures should maintain complete confidentiality on issues related to the case.



Given under the Official Seal of the Labour Court,  
16 December 2010.

Signed: KEVIN DUFFY,  
Chairman.

EXPLANATORY NOTE

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

This Statutory Instrument fixes from 31st December, 2010 statutory minimum rates of remuneration and statutory conditions of employment for Agricultural Workers. It is made by the Labour Court on the recommendation of the Agricultural Workers Joint Labour Committee.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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