



STATUTORY INSTRUMENTS.

S.I. No. 93 of 2008

EMPLOYMENT REGULATION ORDER (AGRICULTURAL WORKERS
JOINT LABOUR COMMITTEE) 2008

(Prn. A8/0435)

EMPLOYMENT REGULATION ORDER (AGRICULTURAL WORKERS
JOINT LABOUR COMMITTEE) 2008

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 1st May, 2007 (S.I. No. 190 of 2007) (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), 2008.
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 14th April, 2008 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 11th April, 2008.*

SCHEDULE

*PART I*STATUTORY MINIMUM REMUNERATION AND CONDITIONS OF
EMPLOYMENT OF AGRICULTURAL WORKERS**SECTION 1 — Minimum time-rates other than those provided at Section 2.**

Worker	From 14th April 2008		From 14th January 2009		From 14th July 2009	
	Phase II 2.5% — 9 months		Phase III 2.5% — 6 months		Phase IV 2.5% — 1 month	
	Per Week	Per Hour	Per Week	Per Hour	Per Week	Per Hour
Experienced Adult Worker	€345.93	€8.87	€354.90	€9.10	€363.87	€9.33
Under age 18 (70% of Adult rate)	€242.19	€6.21	€248.04	€6.36	€254.28	€6.52

SECTION 2 — Minimum time-rates for other categories of workers.

Worker	From 14th April 2008		From 14th January 2009		From 14th July 2009	
	Phase II 2.5% — 9 months		Phase III 2.5% — 6 months		Phase IV 2.5% — 1 month	
	Per Week	Per Hour	Per Week	Per Hour	Per Week	Per Hour
Job Entrant First year after date of first employment over age 18 (80% of Adult Worker rate)	€276.90	€7.10	€283.92	€7.28	€290.94	€7.46
Second year after date of first employment over age 18 (90% of Adult Worker rate)	€311.22	€7.98	€319.02	€8.18	€326.82	€8.38

Worker in Structured Training	From 14th April 2008		From 14th January 2009		From 14th July 2009	
	Phase II 2.5% — 9 months		Phase III 2.5% — 6 months		Phase IV 2.5% — 1 month	
	Per Week	Per Hour	Per Week	Per Hour	Per Week	Per Hour
First 1/3 period (not exceeding 12 months) (75% of Adult Worker rate)	€259.35	€6.65	€265.98	€6.82	€272.61	€6.99
Second 1/3 period (not exceeding 12 months) (80% of Adult Worker rate)	€276.90	€7.10	€283.92	€7.28	€290.94	€7.46
Third 1/3 period (not exceeding 12 months) (90% of Adult Worker rate)	€311.22	€7.98	€319.02	€8.18	€326.82	€8.38

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

These rates take account of Phases II, III & IV of Section 1.6 of “Towards 2016”

PART II

NORMAL WORKING WEEK

1. 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.

The 39 hour week may be implemented in any one of the following ways, depending on the needs of the business:—

- (a) a 39 hour week year round.
- (b) 38 hours for 6 consecutive months.
40 hours for 6 consecutive months.
(the months to be agreed at local level).
- (c) 36 hours for 3 consecutive months.
40 hours for 9 consecutive months.
(the months to be agreed at local level).

Weekly pay for normal hours should not differ as a result of the above arrangements, but should be paid as though the 39 hour week was worked year round.

Overtime rates shall be payable in respect of all time worked in any week in excess of the declared normal number of hours of work for that week.

Where hours of work (including overtime) exceed 48 hours per week, the total number of hours worked in any 7 day period must not exceed 48, averaged over a period of six months. The months of the averaging period must be consecutive, but the employer may choose which six months they will be.

2. Short Day

Only a half day shall be worked on Saturdays unless the contract of employment provides otherwise, or 24 hours notice of a requirement to work after 1.00 p.m. on Saturday is given to the worker by the employer.

3. Rest Periods

The rest periods specified for workers in Sections 11,12 and 13 of the Organisation of Working Time Act shall not apply to agricultural workers. Employers shall ensure that agricultural workers employed by them have equivalent compensatory rest periods and breaks available to them in accordance with the guidelines set out in the Code of Practice on Compensatory Rest Periods (S.I. 44 of 1998).

4. Overtime Rates

- (a) Overtime applies after normal hours have been worked.
- (b) For all time worked in excess of the normal hours of work on any day other than Sunday, and including after 1.00 p.m. on the short day, the minimum time-rate is time and one-third.
- (c) For all time worked on Sundays, the minimum time-rate is time and two-thirds.
- (d) In accordance with the provisions of the Organisation of Working Time Act, 1997, for normal hours worked on Public Holidays **time x 2 applies**. For hours over normal hours, the rate shall be **time- and-one-third x 2**.

PART III

BENEFITS OR ADVANTAGES

To comply with the provisions of the National Minimum Wage Act, 2000.

Board & 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 IV

HOLIDAYS

1. Definition

“Leave year” means a year beginning on 1st April in any year.

2. Annual Leave**Leave Year 1st April, 1999 to 31st March, 2000 and thereafter**

From 1st April, 1999, depending on time worked, workers in relation to whom the Committee operates shall be entitled to holidays calculated by one of the following methods:—

- (a) 4 working weeks in the leave year in which the worker works at least 1,365 hours (unless it is a leave year in which the worker changed employment);
- (b) 1/3 of a working week per calendar month that the worker works at least 117 hours;
- (c) 8% of the hours worked in a leave year, but subject to a maximum of 4 working weeks.

3. Entitlement to Public Holidays

Workers in relation to whom the Committee operates are entitled, in accordance with the provisions of the Organisation of Working Time Act, 1997, to whichever of the following their employer determines, in respect of public holidays:

- (a) A paid day off on that day

- (b) A paid day off within a month of that day
- (c) An additional day of annual leave
- (d) An additional day's pay

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.

4. General

- (a) For the purposes of computing holiday remuneration, no deductions shall be made for benefits provided by the employer but not enjoyed by the worker whilst on annual leave.
- (b) A day which would be regarded as a day of annual leave shall, if the worker concerned is ill on that day and furnishes to the employer a medical certificate in respect of the illness, not be regarded as a day of annual leave.
- (c) The annual leave of a worker who has 8 or more months of service shall include an unbroken period of 2 weeks.
- (d) When ascertaining whether a period is equivalent to two working weeks, the fact that a day is a public holiday or a day of illness shall be disregarded.
- (e) A worker shall 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.

5. Leave and Holiday Entitlements of Short-term and Part-time Workers

Entitlement to leave and public holidays for short-term and part-time workers shall be calculated in the same manner as in paragraphs 2 and 3 herein above.

6. Cesser Pay

Where a worker ceases to be employed and the whole or any portion of annual leave remains to be granted to him/her, the worker shall be paid an amount equal to the pay that he/she would have received if he/she had been granted that leave.

PART V

SICK PAY SCHEME

1. All agricultural workers having a minimum of one year's service with their current employer shall be covered by a Sick Pay Scheme which entitles them to payment during absences due to illness. Such Scheme shall be provided by the employer, and shall be non-contributory.

2. No payment shall be made in respect of the first 3 days of any absence on sick leave. For entitlement to payment, a certificate signed by a medical practitioner must be produced by the third day of any absence on sick leave, specifying the nature of the illness. Certificates must be produced weekly thereafter for continuance of entitlement to sick pay.

3. It will be the worker's duty to ensure that the employer is informed of his/her absence from work due to illness before normal starting time on the first day of absence.

4. Entitlement to benefit under the Scheme will apply only during a 12 month period in any Scheme year, and will not carry over from one year to another.

5. Entitlement to benefit under the Scheme will apply to full-time staff, and pro-rata to part-time staff, as follows:—

All Staff

After one year's service: 3 weeks' pay at appropriate Employment Regulation Order rates less Social Welfare entitlement.

6. Disciplinary procedures may be applied to any worker found to have abused the Scheme.

7. The employer will be entitled to refer a worker for assessment by a doctor nominated by the employer. The cost of any such referral will be paid by the employer.

8. The worker will be responsible for claiming his/her Social Welfare entitlements while on sick leave, and for paying over such payments to the employer. Monies not paid over within 6 weeks of receipt by the worker may be treated by the employer as payment of wages in advance.

PART VI

WORKERS TO WHOM THIS ORDER APPLIES

The minimum remuneration and conditions of employment set out in this Order shall apply, subject to the provisions of the Industrial Relations Acts 1946-2004, to all agricultural workers.

Workers employed in the mushroom growing industry and whose wages and conditions of employment are governed by a Registered Employment Agreement are excluded from the scope of this Order.

Grooms are included in the scope of this Order, except for those whose wages and conditions of employment are regulated by a Registered Employment Agreement.

For the purposes of this Order:

AGRICULTURAL EMPLOYER means a person who employs other persons as agricultural workers.

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.

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.

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.

*PART VII***BULLYING / HARASSMENT / GRIEVANCE / DISCIPLINARY PROCEDURES**

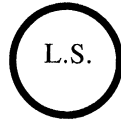
Each employer will include, in the conditions of employment, details of the procedure to apply in the event of issues arising in relation to bullying/harassment, grievance and discipline. In this regard the codes of practice contained in S.I. No. 17 of 2002 (Bullying in the Workplace), S.I. No. 78 of 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,
8 April, 2008

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, with effect from from 14th April, 2008 the statutory minimum rates of remuneration and regulates the conditions of employment for agricultural workers. It does not cover workers in the mushroom growing industry or grooms if they are already covered by the terms of a Registered Employment Agreement. It is made by the Labour Court on the recommendation of the Agricultural Workers Joint Labour Committee.

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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