

TO BE POSTED UP

H. (2009 NO. 2)

NOTICE
HOTELS JOINT LABOUR COMMITTEE

The Labour Court, pursuant to Section 48 of the Industrial Relations Act, 1990, has made an Employment Regulation Order dated 10th September, 2009 fixing the statutory minimum rates of remuneration and regulating the statutory conditions of employment of workers in relation to whom the Committee operates. The Order gives effect to the proposals set out in the Notice of Proposals published on 6th July, 2009.

This notice sets out full details of minimum remuneration and conditions of employment. The rates of remuneration incorporate the provisions of the National Minimum Wage Act, 2000.

As from the date specified in the Order, i.e. **16th September, 2009** the workers in relation to whom the Committee operates are legally entitled to rates of remuneration and conditions of employment which are not less favourable to them than those set out in the Order.

THIS NOTICE MUST BE POSTED UP IN A PROMINENT PLACE SO AS TO ENSURE THAT THE DETAILS THEREIN SHALL BE BROUGHT TO THE KNOWLEDGE OF AND CAN BE CONVENIENTLY READ BY ALL THOSE WORKERS AFFECTED BY IT.

The Labour Court
Tom Johnson House
Haddington Road
Dublin 4

NOTE:

1. Enquiries should be addressed to the Secretary, Joint Labour Committees, at the above address (Telephone 01-6136666, Extension Nos. 6639, 6641, and 6642. "Lo-Call" number (if calling from outside (01) area) 1890 220 228). E-mail: jlc@labourcourt.ie Website: www.labourcourt.ie
2. Complaints of non-compliance with the wages and conditions of employment on this Notice should be addressed to Inspection Services, National Employment Rights Authority, O'Brien Road, Carlow (Telephone "Lo-call" 1890 220 100 or 059-9178900). E-mail: inspection@employmentrights.ie Website: www.employmentrights.ie
3. General enquiries regarding Employment Rights Legislation should be addressed to Information Services, National Employment Rights Authority, O'Brien Road, Carlow (Telephone "Lo-call" 1890 80 80 90 or 059-9178990). E-mail enquiries may be made using the e-form available from the website www.employmentrights.ie/en/aboutnera/contacts/

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 storemen 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)	€19.20
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	€54.43
Second Head Cook	€82.09
Head Cook	€99.99
(ii) <u>Waiter/Waitress</u>	€54.43
2nd Head Waiter/Waitress	€62.71
Head Waiter/Waitress	€73.11
(iii) <u>Barperson</u>	€54.43
2nd Head Barperson	€62.47
Head Barperson	€72.38
(iv) House Assistant/General Worker*	€54.43
(v) <u>Porter</u>	€54.43
2nd Head Porter	€62.71
Head Porter	€73.00

***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	€83.55
(iii) Second year after date of first employment over age 18	€19.20

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:

€4.13 for full board and lodgings per week*, or €7.73 per day

€2.14 for full board only per week*, or €4.60 per day

€1.85 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) 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 schoolday, 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:	2 days off**

(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.

**NOTES REGARDING CERTAIN PROVISIONS OF THE INDUSTRIAL
RELATIONS ACTS, 1946 - 2004**

- (1) Agreements void:- Any agreement between a worker and his/her employer for payment of wages less than the minimum rate or for conditions of employment less favourable than the statutory conditions of employment is void.
- (2) Computation of Remuneration:- The minimum rates of wages set out in the Schedule above shall be payable clear of all deductions except any deduction lawfully made under any enactment for the time being in force requiring or authorising deductions to be made from remuneration.
- (3) Penalty for paying less than the statutory minimum rates:- The penalty for paying wages at less than the minimum rates is a fine not exceeding €52.30 for each offence.
- (4) Penalty for non-compliance with these statutory conditions of employment by the employer is a fine not exceeding €52.30 for each offence.
- (5) Permits authorising the employment of infirm and incapacitated persons at less than the statutory minimum remuneration:- If a Joint Labour Committee is satisfied that a worker is, by reason of infirmity or physical incapacity, incapable of earning the statutory minimum rates of remuneration, the Joint Labour Committee may grant a permit authorising his/her employment at less than the statutory remuneration subject to such conditions as the Joint Labour Committee may determine. Wages to be paid under the permit must at least equate to the National Minimum Wage. Forms of application for such permits may be obtained from the Secretary of the Joint Labour Committees.
- (6) Records:- An employer of any worker to whom a minimum rate is applicable is required to keep for a period of three years such records as are necessary to show whether or not the provisions of the Industrial Relations Acts, 1946 - 2004 are being complied with. Penalty for non-compliance is a fine not exceeding €34.87.
- (7) The above notes are explanatory only, and must not be regarded as a full or authoritative interpretation of the Industrial Relations Acts, 1946 - 2004.