



**FAQs on the Digital Platform Delivery  
Wages Council Wage Regulation Order of  
2022**

**Department for Industrial and Employment Relations**

### ***Why has the Digital Platform Delivery Wages Order been established?***

The Digital Platform Delivery Wages Order (Order) confirms the commitment of the Government of Malta to tackle precarious work by ensuring the establishment of the minimum standards of working conditions which guarantee the quality of life of such workers.

### ***How will the Digital Platform Delivery Wages Order tackle precarious working conditions?***

The order will ensure that the persons engaged to provide paid delivery services of any consumer product, is granted access to labour and social protection rights by ensuring the correct determination of their employment status, by promoting transparency, fairness, and accountability in algorithmic management in respect of platform work and by enhancing transparency, traceability, and awareness of developments in relation to this new form of work.

### ***What rights will this order give to the platform workers?***

This legal instrument establishes that all platform workers shall be considered as employees and thus, they shall benefit from all the rights granted to all employees, such as minimum wage, working conditions for example overtime rates, vacation leave, sick leave etc.

Platform workers will also be given the right on other specific elements which are peculiar to this new form of work. This include information on how the automated system works, including the decision-making system's algorithm which are used to take decisions which significantly impact the conditions of the worker in this sector. Included with the latter, the employer shall make available the information on the automated monitoring systems which are used to monitor, supervise or evaluate the work performance of platform workers.

### ***Who shall be deemed as an employee?***

The Order presumes that there is a pre-existent employment relation on all current platform workers. Therefore, all platform workers after the expiry of 3 months of the publication of this order will be deemed to be employees of either the digital labour platform or any intermediary agency which the person engaged to render the delivery service.

### ***What if the presumed employee is effectively genuinely a self-employed?***

The Order, defines a mechanism through which the presumed employer, that is, the Digital Labour Platform or the work agency, or the same presumed employee can claim that there is no employment relationship. In such case the claimant must prove that the current relationship does not fulfil at least 4 of the following criteria:

1. the effective determination of, or stipulating the maximum limits for the level of remuneration;
2. that the person performing digital platform work is required to respect specific binding rules with regards to appearance and conduct towards the recipient of the service or performance of the work;
3. that supervision is carried out on the performance of the work or the verification of the quality of the results of the work, including by electronic means;
4. the effective restriction of the freedom, including through sanctions, to organise one's working hours or periods of absence, to accept or to refuse tasks or the use of sub-contractors or substitutes;

5. the effective restrictions of the possibility to build a client base or to perform work for any third party.

However, where the digital labour platform, the work agency or the platform worker claim that there is no employment relationship, the said party is responsible to provide all the necessary proof of the non-existent employment relationship and that such worker shall not be deemed as an employee of the platform nor the agency. Nevertheless, until the proceedings are completed, and such claims are verified by the respective authorities the worker in question shall still be deemed as an employee until the conclusion of such proceedings, and thus such platform worker and the employer shall remain subject to this regulation until such proceedings are completed.

***In case where there is a rebuttal of the status of a platform worker's employment, what are the obligations of the presumed employer?***

The presumed employer shall treat the worker in question and grant all the rights and treat the worker as an employee until the proceedings are concluded and verification of such claims are concluded.

The presumed employer is also responsible in accordance with this order to collaborate with the National Authorities and provide all the relevant information as required by the said authorities to determine the veracity of such claim.

***By when the Digital Platform Delivery Wages Order will enter into effect?***

The Order will enter into force as from 3 months from the date of the publishing of the order. This grace period has been established to ensure that the digital labour platform and/or the agency to organise themselves and regularise themselves in accordance with the provisions of the order.

***From when will the current labour force will be considered as an employee?***

The current labour force which has been already engaged to perform the labour work will be considered as an employee from the entry into force of this order. Therefore, the date of engagement of the workers shall also be according to such date.

However, with regards to the probationary period, any platform worker shall be considered to have already been engaged on the initial date of employment and the provision of service shall be deemed as continuous by the platform worker with the respective digital labour platform or work agency accordingly.

***What type of employment contracts shall be granted to the platform workers?***

Upon entry into force of this order the employer shall ensure that those who have an employment relationship are given an employment status of indefinite or definite period and/or either on a whole-time or part-time basis.

***What are the obligations of the employer in respect of conditions to platform workers in an employment relationship?***

Employers are to ensure that provide at least the minimum wage as applicable by law, overtime rate where and when applicable according to the law, and all the statutory leave and special leave.

***What type of information the employer needs to make available to the employee?***

The employer must ensure that all relevant information tied with the conditions of work is made

available to their employees as stipulated in the Transparency and Predictable Working Conditions Legal Notice. That is, within 7 calendar days the employers must ensure that they provide the employee with the following information:

- the basic information of the employer,
- the place of work (in this cases since there is no fixed place of work the employer can designate the workplace of the of the digital labour platform or the work agency or where appropriate the residence of the employer)
- title of the job and job description,
- starting date of the employment relationship,
- termination procedures,
- remuneration and salary package,
- probationary period,
- and other work arrangements such as overtime and shift changes

Beside the above other information pertaining the conditions of work needs to be provided within 1 month of the employment of the starting date of employment. These are as follows:

- entitlement to training,
- information of paid leave in accordance with law,
- applicable collective agreements,
- social security institutions receiving contribution

***What other specific information the digital labour platform or work agency needs to provide to the employee.***

Given the very specificity of this labour niche over and above the information aforementioned the employer shall provide the employee within the first day of the worker's employment date with the following information in written or electronic format as long as it can be printed or stored:

- information on the automated monitoring system which are used to monitor, supervise or evaluate the work performance of platform workers through electronic means.
- Information on automated decision-making systems which are used to take or support decisions that will significantly impact or affect the platform workers' working conditions, in particular their access to work assignments, their earnings, their occupational safety and health, their working time, their promotion and the status relating to their employment, including the restriction, suspension or termination of the workers' digital account.
- information on how the main parameters that such systems take into account and the relative importance of those main parameters in the automated decision-making system, including the way in which the platform workers' personal data or behaviour influence decisions
- information on which grounds for the decisions to restrict suspend or terminate the platform worker's account or any decisions with similar effect.

Employers are also obliged to make available the above information to the Department for Industrial and Employment Relations and the respective representatives of the workers upon request within a reasonable timeframe.

### ***What type of information the employer shall refrain from processing?***

Employers are not allowed to process any personal data of any platform workers whereby such data is not intrinsically connected to and strictly necessary for the performance of their work. In particular, they shall not:

- process any personal data on the emotional or psychological state of the platform worker.
- process any personal data relating to the health of the platform worker, except in cases exceptional circumstances as stipulated by the General Data Protection Regulation.
- process any personal data in relation to private conversations, including exchanges with platform workers' official representatives.
- collect any personal data while the platform worker is not offering or performing platform work

### ***What are the rights of the employee in relation to the automated systems?***

The platform workers have the right to obtain an explanation in plain language from the employer on all the automated decision-making systems that significantly impacts or effects the platform workers' working conditions. Such information shall be provided by the employer in writing and the employer is obliged to provide any clarity on the facts which lead such decision.

In cases where the employee is not satisfied of the justifications provided the employer is required to review such decision and provide a reply to the worker in question by not later of one week from the request or two weeks from the request in case of an SME.

### ***What are the rights of the work agencies in relation to the automated systems?***

The work agencies have the right to have real time access to the data and information of the which includes the algorithmic management connected with the performance of the platform workers.

### ***What are the obligations of the employer with regards to the automated systems?***

The Employer is responsible to regularly monitor and evaluate the impact of individual decisions taken or supported by automated monitoring and decision-making systems.

Furthermore, the employer shall ensure to perform the necessary evaluations of automated monitoring systems and decision-making systems for the safety and health of platform workers, in particular as regards possible risks of work-related accidents, psychosocial and ergonomic risks. As well as that such systems do not put undue pressure on the platform workers physical and mental health.

In this regards the employer must ensure that there are sufficient human resources monitoring and assessing the impact of individual decisions taken by such systems on their workers.

### ***Who shall be responsible in providing all the necessary equipment, vehicle and training?***

The employer is responsible in providing all the necessary equipment and vehicles to the platform workers which are necessary to perform their work. These also include any health and safety material, apparel or other equipment which is required for the worker to complete the assigned duties, such as helmets, uniform, mobile etc. However, regarding the latter, an arrangement on the provision of allowance can also be made with the employee.

With regard, to the provision of vehicles, employers are to make sure that the vehicle provided is

up to standard. Additionally, the order also specifies that some vehicles are being specifically excluded both kick or electric scooter and thus, the order stipulates that such vehicles are prohibited due to health and safety reasons.

Employers are also responsible in keeping and maintaining the vehicle in a safe and workable conditions; thus, they are responsible to pay all costs associated with the use of the vehicles which includes costs of servicing, fuel, licence of the vehicle etc. The employer is also responsible for the safekeeping of the vehicles and equipment provided to their workers.

Employers may in no shape or form request the workers to pay any deposit such equipment.

***What are the rights of the employees to communicate with each other?***

Platform workers have the right and must be enabled the tools to communicate with each other and to liaise with their representatives.

In this regard the employers shall be responsible for the creation of the possibility for platform workers to contact and communicate with each other, and to be contacted by official representatives of platform workers, through the relevant digital infrastructure or similarly effective means, while complying with the obligations under the General Data Protection Regulation. Employers are prohibited from accessing or monitoring such contacts and communications.



## Contact Us

Winter Opening Hours (Mon,Tue,Thu,Fri): 8:00-15:30

Winter Opening Hours (Wed): 8:00-12:00

Summer Opening Hours (Mon-Fri): 8:00-12:00

*Visitors are encouraged to contact us via [info.dier@gov.mt](mailto:info.dier@gov.mt) or via our freephone's 1575 (Employee Helpline) and 1576 (Employers Helpline) for queries*