

(UNOFFICIAL)

L. N. 43 of 1990

CONDITIONS OF EMPLOYMENT (REGULATION)
ACT (CAP. 135)

(Kept in force by virtue of Article 86 of the Employment and Industrial Relations Act – Cap.452)

HOTELS and CLUBS WAGES COUNCIL WAGE REGULATION
ORDER, 1990

In exercise of the powers conferred by Section 8 of the Conditions of Employment (Regulation) Act, the Minister for Social Policy, having received proposals from the Hotels and Clubs Wages Council concerning the conditions of employment of the employees in relation to whom the said Wages Council operates, has made the following order:-

Citation and Commencement

1. This Order may be cited as the Hotels and Clubs Wages Council Wage Regulation Order, 1990 and shall come into force on the 1st April, 1990.

Application of order

2. The provisions set out in the Schedule hereto shall apply to all employees in respect of whom the Hotels and Clubs Wages Council operates.

Revocation of the Hotels and Clubs Wages Council Wage Regulation Order, 1975

3. The Hotels and Clubs Wages Council Wage Regulation Order, 1975 shall be revoked without prejudice, however, to any rights and liabilities existing thereunder on the date of such revocation.

Limitation of application of not Scheme No. 8.

4. The words "The hours of work of apprentices and learners employed under this scheme, shall exceed 10 hours in any one day nor their period of employment twelve hours in any one day" contained in paragraph 7 and paragraphs 8, 9 and 10 of Scheme No. 8 concerning the calling of cook in hotels, clubs, restaurants and hospitals published by Government Notice No. 479 of 1953 shall not apply to learners who are employees in relation to whom this Wage Regulation Order applies.

SCHEDULE

PART I

Application of Part I

1. This part of the Schedule applies to employees in Hotels, Guest Houses, Holiday Complexes, Tourist Villages and Licensed Holiday Flats.

Hours of Work

2. Subject to the provisions of paragraphs 5, 6, and 7 of this Schedule, the minimum weekly remuneration for all employees to whom this part applies shall be related to a week of not more than :-

(a) forty-three hours of work spread over six days for a maximum of 13 weeks to be availed of between the last week in June and first week in October and thirty-nine hours of work spread over five days for the rest of the year in the case of all employees other than watchmen and musicians;

(b) forty-eight hours* of work in the case of watchmen; and

**(averaged over a reference period, as amended by reg. 7 of L.N. 247 of 2003)*

(c) thirty hours of work in the case of musicians.

Minimum Remuneration

3. (1) Subject to the provisions of paragraphs 2, 5, 6 and 7 of this Schedule, the minimum weekly remuneration payable to whole-time employees (other than watchmen and musicians), of the age specified in Column 1 of the Table hereunder, shall be the appropriate rate set out in respect thereto in Columns 2, 3 or 4 thereof:-

RATE PER WEEK

Column 1	Column 2	Column 3	Column 4
Age	Where the employer supplies one meal per day	Where the employer supplies two meals per day	Where neither column 2 nor column 3 is applicable
Under 17 years	€ 155.71	€ 154.31	€ 156.95
17 years of age	€ 158.27	€ 156.88	€ 159.51
18 years of age or over	€ 165.61	€ 164.21	€ 166.85

Provided that Column 2 or 3 is only applicable where the meal or meals are supplied by the employer in agreement with the employee.

(2) The minimum weekly remuneration payable to watchmen shall be as follows:

- | | |
|---|----------|
| (a) watchmen whose duties are mainly performed indoors | € 166.85 |
| (b) watchmen whose duties are mainly performed out of doors | € 169.17 |

(3) The minimum weekly remuneration payable to musicians shall be € 183.78.

Minimum Daily Rest

4. (i) All whole-time employees, other than musicians, shall be allowed intervals of not less, in the aggregate, than one hour for meals and rest in any day on which the hours of work exceed five and a half hours.

(ii) Whole-time musicians shall be allowed intervals of not less, in the aggregate of half an hour for rest in any day.

Minimum Overtime Rates for Maintenance Workers

5. Whole-time employees employed on maintenance work shall be entitled to overtime remuneration as follows:-

- (a) for all time worked on Sundays and customary holidays double-time;
- (b) for all time worked in any week in excess of the hours as shown in paragraph 2 (a), exclusive of any time paid for at overtime rates time-and-a-half;

Provided that in any week which includes a customary holiday, overtime shall be payable for work in excess of thirty-six hours for a maximum of 13 weeks between last week in June and first week in October in the case of employees conditioned to a six-day week and thirty-one and one quarter hours during the rest of the year in the case of employees conditioned to a five-day week, exclusive of any time paid for at overtime rates.

Minimum Overtime Rates for Whole-time Employees other than Musicians and those employed on Maintenance work

6. Whole-time employees, other than those employed on maintenance work, shall be entitled to the following overtime remuneration:

- (a) for all time worked in excess of seven and one quarter hours daily for a maximum of 13 weeks between last week in June and first week in October or seven and three quarters hours daily during the rest of the year time-and-a-half;
- (b) for all time worked in excess of the weekly hours of work as shown in paragraph 2 (a), exclusive of any time paid for under sub-paragraph (a) of this paragraph time-and-a-half;

Provided that employees shall be entitled to overtime payment for hours worked in excess of 39 hours per week only if the average hours of work in

a whole calendar year exceeds an average of 40 hours per week;

- (c) for all time worked on each day
of rest double-time;
- (d) in the case of watchmen:
 - (i) for all time worked in excess of
ten hours on any day time-and-a-half;
 - (ii) for all time worked on each day
of rest and customary holidays ... double-time;

Provided that -

(i) the Director may authorize an employer, in writing, to pay overtime to specified employees, or groups of employees, in respect only of the hours of work in excess of the weekly average of forty-three hours or thirty-nine hours, as the case may be, calculated over a period including such a number of consecutive weeks as the Director may deem reasonable, and in such case the provisions of sub-paragraph (a) of this paragraph shall not apply;

(ii) the hours of work in relation to any one employee acting as night porter on any day in any one establishment shall include only half the time including in a sleeping period.

Minimum Overtime Rates for Musicians

7. Whole-time musicians shall be entitled to overtime remuneration as follows:-

- (a) for all time worked in excess of
five hours daily time-and-a-half;
- (b) for all time worked in excess of
thirty hours in any one week time-and-a-half;
- (c) for all time worked on the weekly
day of rest double-time.

Minimum Remuneration for Part-time Employees

8. (1) The minimum remuneration payable to part-time employees of

the categories specified in paragraph 3 hereof shall be *pro rata* at an hourly rate arrived at by dividing the amount appearing for each category by the number of hours per week for the relative category.

(2) "Part-time employee" means an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable whole-time employee and who is not a whole-time employee with reduced hours, and "whole-time employee" means an employee who is deemed to be a whole-time employee in terms of any recognized conditions of employment.

PART II

Application of Part II

9. This part of the Schedule applies to employees in Clubs.

Hours of Work

10. Subject to the provisions of paragraphs 11 and 12 of this Schedule, the minimum weekly remuneration for all whole-time employees shall be related to a week of not more than:-

(a) forty hours in the case of all whole-time employees except watchmen;

(b) forty-eight hours* in the case of watchmen.

**(averaged over a reference period, as amended by reg. 7 of L.N. 247 of 2003)*

Minimum Remuneration

11. (1) The minimum weekly remuneration payable to whole-time employees (other than watchmen) in clubs, of the age specified in Column 1 of the Table hereunder, shall be the appropriate rate set out in respect thereto in Column 2 thereof:

Column 1
Age

Column 2
Rate per Week

Under 17 years of age	€ 156.95
17 years of age	€ 159.53
18 years of age or over	€ 165.68

(2) The Minimum weekly remuneration payable to watchmen in clubs shall be as follows:-

- (a) those whose duties are mainly performed indoors € 165.68
- (b) those whose duties are mainly performed out of doors € 168.01

Minimum Overtime Rates

12. All whole-time employees shall be entitled to overtime remuneration as follows:-

- (a) for all time worked in excess of six and three quarters hours time-and-a-half;
- (b) for all time worked in excess of forty hours in any week, exclusive of any time paid for at overtime rates ... time-and-a-half;
- (c) for all time worked on the weekly day of rest double-time;
- (d) in the case of watchmen:
 - (i) for all time worked in excess of ten hours on each one day time-and-a-half;
 - (ii) for all time worked on each day of rest and customary holiday .. double-time;

Provided that:-

(i) The Director may authorise an employer in writing to pay overtime to a specified employee or group of employees in respect only of the hours of work in excess of a weekly average of forty hours calculated over such a number of consecutive weeks as the Director may deem reasonable, and in that case the provisions of sub-paragraph (a) of this

paragraph shall not apply;

(ii) The hours of work in relation to one employee acting as night porter on any day in any one establishment shall include only half the time included in a sleeping period.

Part-time Employees

13. "Part-time employee" means an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable whole-time employee and who is not a whole-time employee with reduced hours, and "whole-time employee" means an employee who is deemed to be a whole-time employee in terms of any recognized conditions of employment.

Minimum Remuneration to Part-time Employees

14. The minimum remuneration payable to part-time employees of the categories specified in paragraph 11 hereof shall be *pro rata* at an hourly rate arrived at by dividing the amount appearing for each category, by the number of hours of work per week for the relative category.

Split Shifts

15. Employees working on a system of split shifts shall be entitled to an additional payment of € 1.16 per day worked on such system.

PART III

Application of Part III

16. This part of the Schedule applies to all employees in coffee shops, bars and restaurants.

Definitions

17. In this part of the Schedule unless the context otherwise requires:-

"half-day" means a period of twelve consecutive hours ending at 1:00 p.m. or 1:00 a.m., except in the case of bars, and restaurants where it ends at 2:00 p.m. or 2:00 a.m. respectively;

"restaurant" means an establishment where meals are prepared for consumption by customer on the premises;

"part-time employees" means an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable whole-time employee and who is not a whole-time employee with reduced hours;

"whole-time employee" means an employee who is deemed to be a whole-time employee in terms of any recognized conditions of employment.

Hours of Work

18. Subject to the provisions of paragraph 22 of this Schedule, the minimum weekly remuneration payable to whole-time employees other than watchmen, shall be related to a week of not more than forty hours of work, and, in the case of watchmen, to a week of not more than forty-eight hours* of work.

**(averaged over a reference period, as amended by reg. 7 of L.N. 247 of 2003)*

Minimum Remuneration Payable to Whole-time Employees

19. Subject to the provisions of paragraph 18 of this Schedule the minimum weekly remuneration payable to whole-time employees shall be as follows:

(a) Whole-time employees in restaurants, other than watchmen, of the age specified in column 1 of the table hereunder shall be entitled to the appropriate rate of remuneration set out in column 2 thereof:-

Minimum Remuneration

Whole-time Employees in Restaurants :-

Column 1	Column 2
At age 16 years	€ 156.95
At age 17 years	€ 159.53
At age 18 years and over	€ 166.85

Provided that the employer shall have the right to deduct from the rate

shown in Column 2 above € 0.23 for every day that he, in agreement with the employee, provides one main meal to the employee;

(b) Whole-time employees, other than watchmen, or employees in restaurants, to whom this schedule applies, of the age specified in column 1 in the table hereunder, shall be entitled to the appropriate rate of remuneration set out in column 2 thereof;

Minimum Remuneration

Whole-time Employees (other than watchmen) in Establishments other than Restaurants:-

Column 1	Column 2
At age 16 years	€ 156.95
At age 17 years	€ 159.53
At age 18 years and over	€ 166.85

(c) Watchmen shall be paid as follows:-

(i) those whose duties are mainly performed indoors	€ 166.85
(ii) those whose duties are mainly performed outdoors	€ 169.17

Minimum Daily Rest

20. All whole-time employees shall be allowed intervals of not less in the aggregate, than one hour for meals and rest every day.

Minimum Weekly Rest

21. All whole-time employees shall be allowed one whole day off in every period of seven consecutive days:

Provided that this paragraph shall not apply in respect of any week in which an employee is employed on a Sunday or Customary Holiday and is paid at double-time in accordance with the provisions of paragraph 22 of this Schedule.

Minimum Overtime Rates

22. Whole-time employees shall be entitled to overtime remuneration as follows:-

- (a) for all hours of work in excess of eight hours on any day from Monday to Saturday time-and-a-half;
- (b) for all hours of work on Sundays and Customary Holidays double-time;
- (c) for all hours of work in any calendar week in excess of the number of working hours, being not more than forty stipulated in the contract of service excluding from such number -
 - (i) all time paid for under the foregoing provisions of this paragraph, and
 - (ii) the number of hours during which an employee is on holiday, sick leave or is absent from work without remuneration subject to a maximum of seven hours in respect of any whole day time-and-a-half:

Provided that the Director of Labour may authorize an employer in writing to pay overtime to specified employees or groups of employees in respect only of hours of work in excess of a weekly average of the number of working hours being not more than forty, stipulated in the contract of service, calculated over such a number of consecutive weeks as the Director may deem reasonable; and in that case the provisions of item (a) of this paragraph shall not apply;

- (d) (i) for all hours of work by watchmen in excess of ten hours daily or in excess of sixty hours in a period of six consecutive days time-and-a-half;
- (ii) for all hours of work by watchmen on the seventh day (day of rest) double-time.

Sick Leave

23. (1) After completing the first six months of employment, a whole-time employee shall in every calendar year be entitled to the equivalent in hours of fifteen days sick leave on full pay, less an amount equal to the sum set for sickness benefit entitlement at the rate established under the Social Security Act, and part-time employees shall have a *pro rata* entitlement to sick leave in hours on full pay, less an amount equal to the sum set for sickness benefit entitlement at the rate established under the Social Security Act, which amount is also to be calculated on a *pro rata* basis:

Provided that –

(a) the first three days of any claim for sick leave shall be paid in full by the employer;

(b) a medical certificate covering the period of absence is produced to the employer on the day of return to work or, if such period of absence is longer than seven days, within seven days of the onset of sick leave absence;

(c) employees in receipt of a social security pension in respect of retirement or widowhood in terms of the Social Security Act shall, for the purpose of calculating the sick leave pay due, be deemed to have received an amount equal to the sum set for sickness benefit entitlement at the rate established under the Social Security Act.

(2) After completing the first six months of employment, a whole-time employee shall in every calendar year be entitled to the equivalent in hours of a further thirty-six days sick leave on half pay, less an amount equal to half the sum set for sickness benefit entitlement at the rate established under the Social Security Act, and part time employees shall have a *pro rata* entitlement to sick leave in hours on half pay, less an amount equal to half the sum set for sickness benefit entitlement at the rate established under the Social Security Act, which amount is also to be calculated on a *pro rata* basis:

Provided that –

(a) the first three days of any claim for sick leave shall be paid at half pay by the employer;

(b) a medical certificate covering the period of absence is produced to the employer on the day of return to work or, if such period of absence is longer than seven days, within seven days of the onset of sick leave absence;

(c) employees in receipt of a social security pension in respect of retirement or widowhood in terms of the Social Security Act shall, for the purpose of calculating the sick leave pay due, be deemed to have received an amount equal to half the sum set for sickness benefit entitlement at the rate established under the Social Security Act.

(3) The employer may require a medical certificate by his own physician to certify incapacity for work during the period of absence.

(4) The sick leave entitlement granted by virtue of this paragraph shall be calculated on the basis provided for annual leave as specified in regulation 8(1) of the Organisation of Working Time Regulations.

PART IV

Application of Part IV

24. This part of the Schedule applies to all employees in Hotels, Clubs, Guest Houses, Holiday Complexes, Tourist Villages and Licensed Holiday Flats.

Interpretation

25. In this part of the Schedule unless the context otherwise requires:-

"maintenance work" means such work, connected with the maintenance and functioning of a hotel as is normally done by fitters, plumbers, carpenters, painters, plasterers, electricians and handy-men, and include any work done in a power house or boiler room;

"part-time employee" means an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable whole-time employee and who is not a whole-time employee with reduced hours;

"period of employment" means the time in any day during which employees are at the disposal of the employer but inclusive of intervals allowed for meals and rest;

"sleeping period" means a period not exceeding six consecutive hours fixed by the employer, during which a whole-time employee acting as night porter is provided with adequate sleeping accommodation, is allowed to sleep, but is also required to render occasional service;

"whole-time employee" means an employee who is deemed to be a whole-time employee in terms of any recognized conditions of employment.

Minimum Weekly Rest

26. All whole-time employees shall be allowed one whole day off in each week as the weekly day of rest.

Sick Leave

27. (1) A whole-time employee shall in every calendar year be entitled to the equivalent in hours of eighteen days sick leave on full pay, less an amount equal to the sum set for sickness benefit entitlement at the rate established under the Social Security Act, and part-time employees shall have a *pro rata* entitlement to sick leave in hours on full pay, less an amount equal to the sum set for sickness benefit entitlement at the rate established under the Social Security Act, which amount is also to be calculated on a *pro rata* basis:

Provided that –

(a) the first three days of any claim for sick leave shall be paid in full by the employer;

(b) a medical certificate covering the period of absence is produced to the employer on the day of return to work or, if such period of absence is longer than seven days, within seven days of the onset of sick leave absence;

(c) employees in receipt of a social security pension in respect of retirement or widowhood in terms of the Social Security Act shall, for the purpose of calculating the sick leave pay due, be deemed to have received an amount equal to the sum set for sickness benefit

entitlement at the rate established under the Social Security Act.

(2) Whole-time employees employed for less than one year shall be entitled to paid sick leave in proportion to the number of months in employment.

(3) The employer may require a medical certificate by his own physician to certify incapacity for work during the period of absence.

(4) The sick leave entitlement granted by virtue of this paragraph shall be calculated on the basis provided for annual leave as specified in regulation 8(1) of the Organisation of Working Time Regulations.

Working Time

28. An employee shall be entitled to the payment of the minimum remuneration applicable to him for all time during which he is present on the premises of his employer or in any other place in connection with his employment unless he is present thereon in any of the following circumstances:-

- (a) without the employer's consent, expressed or implied;
- (b) for some purpose unconnected with his work and other than that of waiting for work to be given to him to perform;
- (c) by reason only of the fact that he is resident thereon;
- (d) during recognized breaks for meals and rest, and he is not waiting for work to be given to him to perform.

PART V

Application of Part V

29. This part of the Schedule applies to all employees in Hotels, Clubs, Guest Houses, Holiday Complexes, Tourist Villages, Licensed Holiday Flats, Coffee Shops, Bars and Restaurants.

Interpretation

30. In this part of the Schedule unless the context otherwise requires:-

"customary holidays" means the days (other than Sundays) declared for the time being to be public holidays by or under the National Holidays and other Public Holidays Act, 1975;

"hours of work" means the time on any day during which employees are at the disposal of the employer, exclusive of intervals allowed for meals and rest;

"main meal" means lunch or dinner and breakfast or tea;

"time-and-a-half" and "double-time" mean respectively one and a half times and twice the actual time rate applicable to the employee as if no meals, if any, were provided;

"wages" means remuneration or earnings, payable in money by an employer to an employee;

"week" means a calendar week;

"weekly day of rest" means a period of twenty-four consecutive hours commencing at the time at which the employee would normally commence his turn of duty.

Vacation Leave

31. (1) In addition to the minimum weekly rest to which whole-time employees may be entitled, whole-time employees shall be entitled to the National Holidays and to all public holidays with full pay, and to the following vacation leave not being less than:-

- (a) four working weeks and one working day during the calendar years 1988 and 1989;
- (b) four working weeks and two working days during the calendar year 1990;
- (c) four working weeks and three working days during the calendar year 1991;
- (d) four working weeks and four working days during the calendar year 1992 and during any calendar year thereafter:

Provided that when a whole-time employee is in employment for less than twelve months during any calendar year, he shall be entitled to such part of the said vacation leave as is in proportion to the number of months in employment.

(2) For the purpose of this paragraph "vacation leave" means leave with pay which may be availed of on days agreed upon between the employer and the employee, provided that one day vacation leave during each of the calendar years 1988 and 1989, two days vacation leave during 1990, three days vacation leave during 1991 and four days vacation leave during 1992 and during any calendar year thereafter shall not form part of any shutdown and shall be granted by the employer as optional leave in addition to any optional leave the employee may have been entitled to on the 9th November, 1988.

Bereavement Leave

32. Whole-time employees shall be allowed two days paid leave on the occasion of the death of any of the following relatives: wife, husband, mother, father (or the person who at the time was in fact acting as the mother or father of the employee), son, daughter, brother or sister.

Special Leave

33. A whole-time employee shall be allowed three days leave with pay on the occasion of his marriage and one day leave on the occasion of the birth of a child to the wife of the employee.

Injury Leave

34. A whole-time employee shall be entitled to one year injury leave on full pay less full amount of any injury benefit to which such employee may be entitled under the Social Security Act, 1987, if he is injured during the actual discharge of his duty and not due to any contributory negligence on his part or to any contravention of safety rules laid down by the management.

Jury Leave

35. Whole-time employees called for jury service shall be allowed all the necessary time off on full pay to attend such service at the Court.

Tips

36. The minimum rates prescribed by this order shall in no case include any tips which are earned by the employees in the course of their duties.

Retiring Age

37. In cases where the retiring age of a male employee is expected at the age of 60 years, such employee shall be given the opportunity by his employer to retain his employment beyond this age at least until the age of 61 years, provided that the employee in question shall still be allowed, if he so wishes, to retire at the age of 60 years.

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its applicability)

The provisions in the above Schedule will apply to all persons employed in hotels, guest houses, holiday complexes or tourist villages, licensed holiday flats, clubs, coffee shops, bars and restaurants.

Hotels include any bar, restaurant or shop run directly by the Management of a hotel as part of that hotel.

Clubs include any bar, restaurant or shop either run directly by the management of a club, or given out under contract, for the purpose of increasing the amenities of the club.

The terms "guest houses", "holiday complexes or tourist villages" and "licensed holiday flats" have the same meaning as is assigned to them by the Hotels and Catering Establishments Act. (Cap. 197), and by the Guest Houses and Holiday Furnished Premises Act. 1974.

Amended up to 01.01.14