



STATUTORY INSTRUMENTS.

S.I. No. 548 of 2016



EMPLOYMENT REGULATION (AMENDMENT) ORDER (CONTRACT
CLEANING JOINT LABOUR COMMITTEE) 2016

EMPLOYMENT REGULATION (AMENDMENT) ORDER (CONTRACT CLEANING JOINT LABOUR COMMITTEE) 2016

WHEREAS I, PAT BREEN, Minister of State at the Department of Jobs, Enterprise and Innovation, being in receipt of proposals of the Contract Cleaning Joint Labour Committee that have been adopted by the Court and forwarded to me under subsection (1) of section 42C (inserted by section 12 of the Industrial Relations (Amendment) Act 2012 (No. 32 of 2012)) of the Industrial Relations Act 1946 (No. 26 of 1946) and being satisfied that sections 42A and 42B of that Act have been complied with and considering it appropriate to do so:

NOW, I, PAT BREEN, in exercise of the powers conferred on me by subsection (2) of section 42C (inserted by section 12 of the Industrial Relations (Amendment) Act 2012 (No. 32 of 2012)) of the Industrial Relations Act 1946 (No. 26 of 1946) (as adapted by the Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011) and the Jobs, Enterprise, and Innovation (Delegation of Ministerial Functions) Order 2016 (S.I. No. 333 of 2016) hereby make the following order:

1. This Order may be cited as the Employment Regulation (Amendment) Order (Contract Cleaning Joint Labour Committee) 2016.
2. This Order and Employment Regulation Order (Contract Cleaning Joint Labour Committee) 2015 (the 2015 Order) shall be cited as Employment Regulation Orders (Contract Cleaning Joint Labour Committee) 2015 and 2016.
3. The 2015 Order is amended by substituting for the Schedule to it the Schedule set out in the Schedule to this Order.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 1st November, 2016.

SCHEDULE

“SCHEDULE

*PART I**Interpretation*

In this Order:—

“Act of 2000” means the National Minimum Wage Act 2000 (Number 5 of 2000);

“Establishment Order” means S.I. No. 626/2007 — Contract Cleaning Joint Labour Committee Establishment Order 2007, as amended by S.I. No 25/2014-Contract Cleaning Joint Labour Committee Establishment (Amendment) Order 2014;

“Minister” means the Minister for Jobs, Enterprise and Innovation;

A word or expression that is used in this Order which is also used in the Establishment Order has, unless the contrary intention appears, the meaning in this Order that it has in the Establishment Order.

Workers to Whom this Order Applies

This Order applies to Workers to whom the Establishment Order Applies.

PART II

**STATUTORY MINIMUM REMUNERATION AND CONDITIONS
OF EMPLOYMENT**

Section I — Rate of Remuneration

(1) Subject to paragraph (2) of this section a worker to whom this Order applies shall be remunerated by his or her employer at the following rates:

- (a) €9.75 per hour until the new hourly rate of €10.05 applies from the 1st December 2016 or 60 days after the date of signing/effective date of Order, whichever is the later;
- (b) €10.40 per hour — from the 1st December 2017; and
- (c) €10.80 per hour — from the 1st December 2018.

(2) (a) A worker who has not attained the age of 18 years shall be remunerated at an hourly rate of pay that is not less than 70 per cent of the rate specified in paragraph (1).

(b) A worker who enters into employment for the first time after attaining the age of 18 years or having entered into employment before attaining the age of 18 years continues in employment on

attaining that age, shall be remunerated at an hourly rate that is not less than:—

- (I) In the case of a worker commencing employment for the first time after attaining the age of 18 years:—
 - (i) In his or her first year after having commenced employment, 80 per cent of the rate specified in paragraph (1);
 - (ii) In his or her second year after commencing employment, 90 per cent of the rate specified in paragraph (1).
- (II) In the case of a worker having entered into employment before attaining the age of 18 years and continuing in employment on attaining that age:-
 - (i) In his or her first year after having attained the age of 18 years, 80 per cent of the rate specified in paragraph (1); and
 - (ii) In his or her second year after having attained that age, 90 per cent of the rate specified in paragraph (1).
- (c) Where a worker who has attained the age of 18 years undergoes a course of study or training authorised by the employer within the workplace or elsewhere during normal working hours, such courses or training to be prescribed in regulations made by the Minister pursuant to section 3 of the Act of 2000 for the purposes of section 16 of that Act, the worker shall be remunerated by his or her employer in respect of his or her working hours at a rate of pay that is not less than the following:
 - (i) in respect of the first one-third period (but not exceeding 12 months) of the total study or training period, 75 per cent of the rate specified in paragraph (1);
 - (ii) in respect of the second one-third period (but not exceeding 12 months) of the total study or training period, 80 per cent of the rate specified in paragraph (1);
 - (iii) in respect of the third one-third period (but not exceeding 12 months) of the total study or training period, 90 per cent of the rate specified in paragraph (1).

The conditions specified at section 16 of the Act of 2000 shall apply, with necessary modifications, to the application of this subparagraph.

Section II — Annual Holidays

(1) Depending on time worked, employees' holiday entitlements should be calculated by one of the following methods:-

- (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 per calendar month that the employee works at least 117 hours;
- (c) 8% of the hours an employee works in a leave year (but subject to a maximum of 4 working weeks).

(2) Where Sunday working is part of the normal week's work, or regularly part of a roster, it will be included in Holiday Pay Payment and will be calculated on the average of Sundays worked in the 13 weeks prior to the date of the employee's holidays.

(3) Good Friday — workers employed prior to 2nd August 2012 will be paid for Good Friday as if it was a public holiday in accordance with the provisions of Sections 21 and 22 of the Organisation of Working Time Act 1997, exclusive of any qualifying number of hours required in that Act. For persons employed from and including 2nd August 2012, Good Friday is to be paid as a normal working day except for those workers who have a contractual entitlement to payment for Good Friday. These workers will continue to be paid for Good Friday as if it was a public holiday in accordance with the provisions of Sections 21 and 22 of The Organisation of Working Time Act 1997, exclusive of any qualifying number of hours required in that Act.

(4) Payment for Public Holidays shall be in accordance with Part III of the Organisation of Working Time Act 1997.

PART III

TERMS OF EMPLOYMENT

All Employers will, on request or within two months of the commencement of employment, provide each employee with a written statement of the employee's terms of employment in compliance with the Terms of Employment (Information) Act, 1994.

In the event of a transfer of undertakings, the outgoing contractor will provide to all employees a written statement up to 2 weeks prior to the contract transfer date or at the earliest opportunity in a case where 30 days' notice has not been provided by the Client.

Both statements to include:-

Personal Details	Employee Name Employee Address Employee Date of Birth PPS Number Date of commencement (including continuous service date) Email address (if applicable)
Company Details (outgoing contractor)	Name of Company Address of Company
Pay & Benefits	Hourly Rate of Pay Payroll frequency Details of any bonus/premiums to include Sunday premium, public holiday entitlement Good Friday, Shift as applicable Overtime arrangements — hours after which overtime applies, rate of pay for overtime for weekdays, weekends, Sundays as applicable Pension — Detail PRSA scheme or occupational scheme (if applicable) Sick Pay — As per ERO or occupational scheme (if applicable)
Working hours	Total weekly hours Starting and finishing times (variable, if applicable) 4 weeks' notice of change of hours or payment in lieu of notice to be given to each employee Roster cycle Breaks (times & payment) as applicable
Annual Leave Entitlement	As applicable
Any other Site specific/Employee entitlements	Detail (where applicable)
Trade Union	Name of Trade Union (where applicable)

Annual Leave Balance in the case of a transfer

Holiday balance to be issued in writing by the outgoing contractor to both the incoming employer and the employee within two weeks of the final payroll, at the latest.

Certificate of Service

Each Worker shall be entitled to request and receive from his/her employer a certificate of service showing the period of their employment and the accrued length of his/her service, once per annum. The outgoing contractor

will provide to all employees a certificate of service in advance of a transfer of employment occurring.

Communication

Correspondence to the employee including rosters, payslips, documents referred to in this ERO and other communications from the employer will be provided by the employer by email or company portal, where the employee has the facility to access email communication and web. Employees are requested to provide an email address on request from the employer. Where the employee does not have the facility and/or is not agreeable, alternative communication methods which are suitable to and agreed with the employee, will apply.

PART IV

OTHER 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.

Existing Agreements

This Employment Regulation Order does not affect in any way already existing agreements (if equal or better) be they local, national, official, or in-company.

Uniforms

From the effective date of this ERO the following will apply:

Deductions/charges for uniforms shall cease for all existing employees in the industry.

For new employees (excluding employees who transfer) an initial one off charge of €15.00 will be payable by the employees towards the cost of all uniforms which will be supplied by the employer. This payment can be made over 3 pay periods.

If an employee resigns within the first 6 months of employment a further €10.00 may be deducted by the employer from any wages due to the employee.

Employees are expected to take care of their uniforms and to ensure their uniforms are clean and presentable for each shift.

Each employer is to have a uniform procedure which includes details on issuing replacement items and return of uniforms at the end of employment. This procedure shall be communicated to all employees, and to the Trade Union, where such applies.

Sick Pay Scheme

The following Sick Pay Scheme will apply in each employment.

- Medical certificate to be submitted on the 3rd day of illness and on a weekly basis thereafter.
- No benefit to be paid for the first 5 working days of illness. Benefit will be paid in respect of certified illness only.
- Benefit payable by the employer: 20% of basic weekly rate for up to 6 weeks in any one rolling year, subject to the sum of all benefits, i.e. both State and Company benefits (not including occupational injury benefit) not exceeding the individual's personal rate of weekly pay.
- Contribution: 0.5% of basic rate of pay for all employees. There is no employer contribution.
- Employees may opt into the scheme at any time after their entry into employment. They may opt in or out of the scheme with effect from 1st January each year.

Maternity Leave

All female employees in the industry shall be entitled to Maternity Leave in accordance with the provisions of the Maternity Protection Acts 1994 and 2004.

Each employee who avails of Maternity Leave shall have the right to return to work on the same site, and only if that is not possible, to a suitable alternative site, in accordance with the provisions (sections 26 and 27) of the 1994 Act.

Minimum Notice

Employees shall be entitled to the terms of the Minimum Notice and Terms of Employment Acts 1973 to 2005 and these terms shall be stated in each contract of employment.

In the case of a fixed term contract (e.g. temporary job), the date of termination of the contract will be stated in accordance with the provisions of the Protection of Employees (Fixed Term Work) Act 2003.

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 set out in S.I. No. 17 of 2002 — Industrial Relations Act 1990 (Code of Practice Detailing Procedures for Addressing Bullying in the Workplace) (Declaration) Order 2002; S.I. No. 146 of 2000 — Industrial Relations Act 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order 2000; and S.I. No. 208 of

2012 — Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012 are to be observed.

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) All internal company procedures and appeals to be exhausted in the first instance in line with the Code of Practice SI. 146 of 2000.
- (b) The procedures will 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 the Workplace Relations Commission, the Labour Court, or may pursue the matter under common law.

Representation Rights

Each employment contract shall include the name of the recognised Trade Union with representation and or negotiation rights in the Company where appropriate.

Protection of employment

Employers in the industry will give all reasonable notice of impending redundancies to the workers concerned in accordance with the legislation, i.e. Protection of Employment Act 1977 (Notification of Proposed Collective Redundancies) Regulation 1977, Redundancy Payments Acts 1967 to 2014 and the Minimum Notice and Terms of Employment Acts 1973 to 2005.

Disclosure of Information

Employers will provide information on the date of termination of any client contract which has been signed and, where the date of termination changes, the employee will be advised of such change. A workers' representative, nominated by the Trade Union shall also be advised, where such applies.

Employers will give the information where reasonably practicable, not later than 30 days before the transfer of the employment contract is carried out and, in any event, in good time before the transfer is carried out.

Change of address

Any employer so affected shall notify employees of a change of name/address at least five days before the change is due. This information will also be conveyed to the workers' representative where appropriate. Workers have a duty to notify their employer within a reasonable time period (two weeks) of any change of address to facilitate maintenance of proper employment records.

Rosters

Completed rosters setting out all hours of work for a minimum period of one week will be made available to employees in writing. Other than in exceptional circumstances completed rosters will be issued and made available to the employee a minimum of 3 days in advance of commencement.

Rosters are subject to flexibility relating to operational and business needs. Changes to shift patterns on the day to meet operational requirements will be done in consultation and agreement with the employee who will not be disadvantaged if they cannot fulfil the changed duty.

Payment of Wages

- The Payment of Wages is a legal entitlement and is governed by the Payment of Wages Act 1991.
- Wage shortages/errors should only occur as an exception.
- Each company shall have an operational procedure in place for dealing with wage shortages and overpayments to employees. The key objective shall be to resolve the issue at the earliest opportunity. The procedure shall be communicated to all employees, and to the relevant Trade Union, where such applies.

Contribution to Revenue Commissioners

On request from a worker, or his/her representative, employers will provide evidence of payment made to Revenue Commissioners and the Department of Social Protection on behalf of that worker.

Deduction of Union Dues at source

Each employer shall, on receipt of a written request from members, deduct union dues from workers' wages.

*PART V***OVERTIME**

Overtime rates shall be paid after 44 hours worked Monday to Sunday.

- Time and one half for the first four hours and double time thereafter.
- Sunday overtime to be paid at the rate of double time for all hours worked.

Hours of overtime carried out after 40 hours and up to 44 hours per week will be paid at flat rate. Notwithstanding an employer's right to reasonably request an employee to work overtime in particular circumstances, hours of overtime offered will be carried out on a voluntary basis by employees, i.e. workers can opt to carry out the work or not.

Any issues arising regarding unfair distribution of available overtime shall be raised by the worker under the Grievance procedure.

Where existing site arrangements are in place, they will remain as is unless changed by agreement.

Death-in-Service-Benefit

The following Death in Service Benefit will apply in each employment.

- Death-in-Service Benefit of €5,000.
- Eligibility for an employee is 2 years' continuous service in the cleaning industry.
- Benefit is applicable from date of commencement of this Order for all qualifying existing employees. Employees will be added in January of each subsequent year following completion of qualifying period.
- Benefit payable up to the age the State pension becomes payable to the employee.”

GIVEN under my hand,
27 October 2016.

PAT BREEN,
Minister of State at the Department of Jobs, Enterprise and
Innovation.

EXPLANATORY NOTE

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

This Order fixes the statutory minimum rates of remuneration and other conditions of employment for workers employed in the Contract Cleaning Industry, providing cleaning and janitorial services in, or on the exterior of establishments, including hospitals, offices, shops, stores, factories, apartment buildings, hotels, airports and similar establishments.

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