

Subsidiary Legislation made under s. 36.

Conditions of Employment (Licensed Non-Residential Establishments) Order, 1986

LN.1986/054

Commencement **1.6.1986**

Amending enactments	Relevant current provisions	Commencement date
LN. 1986/100	Paras. 4(1)-(2), 5(3), 6(1), 7-8	20.10.1986
1987/095	Paras. 4(1), 8	6.4.1987
1988/160	Paras. 4(1), 8	26.12.1988
1990/082	Paras. 4(1), 8	28.6.1990
1991/109	Paras. 4(1), 7-8	24.6.1991
1991/192	Para. 11	21.10.1991
1992/071	Para. 11(1)(c)-(d)	1.6.1992
1992/114	Paras. 4(1), 7-8	31.8.1992
1995/109	Paras. 4(1), 7-8	7.8.1995
1996/051	Paras. 4(1), 7-8	15.4.1996
1997/132	Paras. 4(1), 7-8	10.11.1997
1998/116	Paras. 4(1), 7-8	21.12.1998
2003/114	Paras. 4(1), 7-8	23.10.2003
2005/169	Paras. 4(1), 7-8	1.7.2005
2008/110	Paras. 2, 4(1)-(2), 6, (2), 7-8	1.1.2009

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**Conditions of Employment (Licensed Non-Residential
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Title and commencement.

1. (1) This Order may be cited as the Conditions of Employment (Licensed Non-Residential Establishments) Order, 1986.

(2) This Order shall come into force on the 1st day of June, 1986.

Interpretation.

2. In this Order, unless the context otherwise requires,—

“catering undertaking” means any undertaking or any part of an undertaking which consists wholly or mainly in the carrying on (whether for profit or not) of the supply of food or drink for immediate consumption and other activity so far as it is incidental or ancillary thereto;

“full time worker” means a worker who ordinarily works for not less than 34 hours a week on any employment or work to which this Order applies;

“industrial or Staff Canteen Undertaking” means an undertaking or any part of an undertaking which is wholly or mainly engaged for supplying food or drink for immediate consumption and activities incidental or ancillary thereto, and which is carried on for the use of employed persons in connection with their employment—

(a) by their employer or employers; or

(b) by the employed persons themselves; or

(c) by the employed persons and their employer or employers jointly; or

(d) by any other person or body of persons in pursuance of an arrangement or arrangements with the employer or employers of the employed persons, or with the employed persons themselves, or with the employed persons and their employer or employers jointly;

“licensed non-residential establishment” means a bar, cafe, night club, registered club, casino, restaurant or other premises at which it is lawful for intoxicating liquor to be sold or supplied for consumption on the premises and which is not a residential establishment within the meaning of this Order;

“manager” means an employee responsible to the employer for the cleanliness, care and supervision of the premises and equipment of a licensed non-residential

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establishment, for the keeping of records and for the correct handling of the cash and stocks, for the control of the staff where any are employed and for the conduct of the establishment as required by law;

“part time worker” means a person employed, who with the consent of his employer, ordinarily works for not more than 34 hours a week on any employment or work to which this Order applies;

“public holiday” has the same meaning as it has in paragraph 2 of the Employment (Annual and Public Holidays) Order;

“relief manager” means a worker who is appointed by the employer to take charge of a licensed non-residential establishment in the absence of the manager and who is not in receipt of statutory minimum remuneration, other than the remuneration provided for a relief manager;

“residential establishment” means an establishment which contains two or more rooms ordinarily available as sleeping accommodation for guests or lodgers;

“standard minimum remuneration” means the standard minimum remuneration as set out in the Conditions of Work (Standard Minimum Wage) Order, 2001 as amended or replaced from time to time;

“trainee manager” means a worker during his first year of employment under a trainee manager’s contract or a contractual series of such contracts with any one employer;

“time and a half” and “double time” mean respectively one and a half times and twice the hourly rates of pay obtained by dividing the workers agreed weekly wage by the agreed number of working hours in a normal week;

“weekly rest day” means a day in the week, fixed at the time of the workers engagement, which may be changed by agreement between the employer and the worker subject to 7 days notice; or, if no such day is fixed or agreed, the last day in the week.

Application.

3. (1) This Order applies to all workers who are employed in any licensed non-residential establishment and who:—

- (a) are employed in a catering undertaking; and
- (b) are employed by the person or body or persons carrying on that undertaking; and

(c) are employed to engage in any of the following work:—

- (i) the preparation of food or drink;
- (ii) the service of food and drink;
- (iii) work incidental to such preparation or service;
- (iv) work in connection with any retail sale of goods;
- (v) any other work performed in or about a licenced non-residential establishment, including work in connection with any service or amenity provided in or about such establishment.

(2) Subject to the provisions of subparagraph (1), this Order does not apply to workers who:—

- (a) are employed in any hotel or residential establishment;
- (b) are employed for the purpose of any of the activities carried out at a theatre, music hall or other place of entertainment ordinarily used for the public performance of stage plays or variety entertainments;
- (c) are employed in an industrial or staff canteen undertaking;
- (d) are employed as managers, relief managers or trainee managers in licensed non-residential establishments other than clubs; or
- (e) are employed as club secretaries, doormen, entertainers or cleaners.

Minimum remuneration for a full time worker.

4.(1) Subject to the provisions of paragraphs 3 and 6, the minimum weekly remuneration payable to a full time worker to whom this Order applies shall be the standard minimum remuneration.

(2) The remuneration specified in subparagraph (1) relates to a week of 39 hours exclusive of overtime and, except in the case of guaranteed weekly remuneration under paragraph 6 is subject to a proportionate reduction where the number of hours worked is less than 39.

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(3) In calculating remuneration for the purpose of this Order recognized breaks for meal time aggregating up to a maximum of 2 hours on any day shall be excluded.

Minimum overtime rates.

5. (1) Overtime rates of pay shall be:–

- (a) time and a half for overtime on all normal working days;
- (b) for all time worked on Christmas Day, Good Friday or a weekly rest day in all undertakings double time with a minimum of 4 hours that is, 8 hours payment, and in addition, in the case of time worked on Good Friday or Christmas Day, one day's holiday in lieu or payment in compensation therefor, in accordance with paragraph 9(2) of the Employment (Annual and Public Holidays) Order.

(2) The number of hours worked in a week shall not exceed 60 unless approved by the Director under section 41 of the Act. Double time shall be payable for the period in excess of 60 hours.

(3) Where a regular worker is allowed time off in lieu of overtime worked or a day off during any week as piece meal apportionment of a statutory holiday period or in lieu of a public holiday, such time off or day off shall count in full towards the 39 hours to be worked in a week under paragraph 4(2).

Guaranteed weekly remuneration.

6. (1) Although in a week a full time worker may work less than 39 hours at his normal duties, he shall still receive the minimum remuneration in paragraph 4 provided that:–

- (a) the hours so worked are at least 34; and
- (b) he is willing, available and capable of performing other reasonable duties as required by his employer.

(2) Where in any week a full time worker works for less than 34 hours but for more than 15 hours at his normal duties, his guaranteed minimum remuneration shall be that amount to which he would be entitled if he were categorised as a part time worker.

Provided that the full time worker voluntarily makes himself unavailable for work for less than 34 hours in any week and he obtains his employers written consent to be absent from work for less than this period but for more than 15 hours.

(3) Overtime worked on a weekly rest day or a half holiday shall not be taken into account for the purpose of the guaranteed weekly remuneration.

7. Deleted.

Minimum remuneration for any other worker.

8. The minimum weekly remuneration payable to any part time worker to whom this Order applies shall be ascertained by ascribing the hourly standard minimum remuneration rate in respect of each hour or part of an hour worked.

Employer's deduction.

9. Where any regular, auxiliary or other worker to whom this Order applies becomes, under his contract of service, entitled to food, drink, a dwelling house or other allowances or privileges, in addition to cash wages as a remuneration for his services the employer shall, with the consent of the worker, be entitled to deduct from his wages an amount not exceeding 35 per cent of such remuneration.

Records.

10. For the purpose of showing that the provisions of this Order have been complied with, every employer shall maintain and retain for a period of 12 months weekly records showing clearly the hours of commencing and of ceasing work, the meal or other breaks included, the number of hours worked daily, the wages paid and the holidays allowed in relation to every worker.

Redundancy payment.

11. (1) Where an employee's employment is terminated by reason of redundancy, he shall be paid by his employer by way of compensation—

- (a) for each of the first 5 completed years of service, two week's pay;
- (b) for each of the next 5 completed years of service, 3 week's pay;
- (c) for each additional completed year thereafter, 4 weeks pay;
- (d) in respect of an employee aged 41 years and over for each completed year of service after the age of 40 years, two weeks' pay.

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Provided that the total amount of the redundancy payment shall not exceed the amount of one year's pay, and that no payment will be made to the employee who has not completed one year's service.

- (2) For the purposes of this paragraph—
 - (a) “redundancy” has the meaning given to it in section 74(1) of the Employment Act;
 - (b) “week's pay” means the average of the gross weekly payment made to that employee in the thirteen weeks immediately prior to the termination of the employment.