

Subsidiary Legislation made under s. 36.

Conditions of Employment (Wholesale Trade) Order, 1995

LN.1995/110

Commencement **7.8.1995**

Amending enactments	Relevant current provisions	Commencement date
LN. 1996/050	Sch.	15.4.1996
1997/131	Sch.	10.11.1997
1998/117	Sch.	21.12.1998
2003/118	Sch.	23.10.2003
2005/172	Sch.	1.7.2005
2008/109	Sch.	1.1.2009

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Title and commencement.

1. This Order may be cited as the Conditions of Employment (Wholesale Trade) Order, 1995 and shall come into effect on the 7th day of August, 1995.

Interpretation.

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

“labourer” means a person employed to assist in the loading and unloading of vehicles and to undertake cleaning duties as directed;

“warehouse hand/delivery hand” means a person employed to—

- (a) assist in the receipt and checking of deliveries and assignments according to the procedures of the employer together with the reporting of any discrepancies;
- (b) undertake the picking and storage of goods;
- (c) implement stock rotation procedures;
- (d) participate in regular stock taking;
- (e) maintain the required level of hygiene and cleanliness of the warehouse, its equipment and personal hygiene;
- (f) assist in ensuring the security of equipment and stock;
- (g) undertake delivery duties as required; and
- (h) undertake such other lower graded duties as may be required and directed.

“storeman” means a person employed to be responsible for—

- (a) the receipt and checking of all deliveries and assignments according to the employer’s procedures together with reporting of any discrepancies;
- (b) ensuring rotation procedures are applied in the storage of goods;
- (c) the careful handling and proper storage of goods, and minimisation of stock loss;
- (d) carrying out regular stocktake of the warehouse;

- (e) maintaining the required level of hygiene and cleanliness with regards to the warehouse, company equipment and personal hygiene;
- (f) ensuring the security of equipment and stock in the warehouse and the reporting of any malpractice to senior management;
- (g) overseeing that relevant statutory requirements and employer's procedures are observed (e.g. Health and Safety, Fire Regulations etc);
- (h) supervising other warehouse staff;
- (i) undertaking such other lower graded duties as may be required and directed.

“driver (B Class Licence)” means a person who is employed to drive goods vehicles used for the carriage of goods having not more than 8 seats in addition to the drivers seat, with a laden weight not exceeding 3,500 kilograms;

“driver (C Class Licence)” means a person who is employed to drive motor vehicles (not being adapted or constructed to form part of an articulated vehicle) used for the carriage of goods with a laden weight exceeding 3,500 kilograms;

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

“rest day” means one day of each week (not being a public holiday) which has been notified to the employee before the commencement of that week as a rest day or failing such notification, Sunday in that week;

“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 employee's agreed weekly wage by the agreed number of working hours in a normal week;

“wholesale trade” means the trade of selling articles in large quantities to be retailed by others and in respect of which an appropriate Trade Licence issued under the Trade Licensing Act is held.

Application.

3. This order applies to all employees in Gibraltar in any undertaking or any branch or department of any undertaking engaged in the wholesale trade.

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Minimum remuneration.

4.(1) Subject to the provisions of paragraph 5 and 6, the minimum weekly remuneration payable to employees to whom this Order applies shall be as set out in the Schedule.

(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 accordingly where the number of hours worked is less than 39.

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

Minimum overtime rates.

5.(1) Overtime rates of pay shall be—

- (a) time and a half for overtime on normal working days including Saturdays;
- (b) double time for all time worked on weekly rest days or on public holidays and in addition in the case of time worked on Good Friday or Christmas Day one day's holiday in lieu of 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, in which case double time shall be payable for any hours in excess of 60.

(3) Where an employee 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 any week under paragraph 4(2).

Guaranteed minimum remuneration.

6.(1) Although in a week an employee may work less than 39 hours at his normal duties, he shall still receive the minimum remuneration in paragraph 4, provided that the hours so worked are at least 34 and provided that he is willing, available and capable of performing other reasonable duties as required by his employer.

(2) Where in any week an employee at his request and with the consent of his employer is absent from work, the amount of the guaranteed minimum weekly remuneration shall be reduced proportionately.

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

Records.

7. For the purpose of showing that the provisions of this Order have been complied with, every employer shall maintain and retain for the period of twelve 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 employee.

Minimum nature of conditions prescribed.

8. The provisions of this Order shall not prevent agreements for wages and or conditions more favourable than those prescribed herein.

Redundancy payment.

9.(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 five completed years of service, two week's pay;
- (b) for each of the next five complete years of service, three week's pay;
- (c) for each additional completed year thereafter, four week's 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 week's pay.

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 an 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;

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- (b) “week’s pay” means the average of the gross weekly payments made to that employee in the thirteen weeks immediately prior to the termination of the employment.

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Paragraph 4

The minimum remuneration set out in paragraph 4 of this Order is—

Grade	Remuneration
Labourer	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
Warehouse Hand/Delivery Hand	
Storeman	
Driver (B Class Licence)	
Driver (C Class Licence)	