

S.I. NO. 552 OF 2004

EMPLOYMENT REGULATION ORDER
(AERATED WATERS AND WHOLESALE BOTTLING
JOINT LABOUR COMMITTEE), 2004

WHEREAS the Labour Court (hereinafter called ‘the Court’), pursuant to the provisions of the Industrial Relations Acts, 1946-2001, made an Employment Regulation Order dated 8th July, 2003 (S.I. No. 282 of 2003) (hereinafter called ‘the said Order’) fixing the statutory minimum rates of remuneration and regulating the statutory conditions of employment of workers in relation to whom the Aerated Waters and Wholesale Bottling Joint Labour Committee (hereinafter called ‘the Committee’) operates;

AND WHEREAS the Committee has submitted to the Court a proposal for revoking the said Order;

AND WHEREAS the Committee has also submitted to the Court the proposals set out in the Schedule hereto for fixing the statutory minimum rates of remuneration and regulating the statutory conditions of employment of workers in relation to whom the Committee operates;

AND WHEREAS the provisions of Section 48 of the Industrial Relations Act, 1990 have been complied with;

NOW, THEREFORE, the Court, in exercise of the powers conferred on it by Section 43(4) of the Industrial Relations Act, 1946, and by Section 48(4) of the Industrial Relations Act, 1990, hereby Orders as follows:-

- (1) This Order may be cited as the Employment Regulation Order (Aerated Waters and Wholesale Bottling Joint Labour Committee), 2004.
- (2) Effect is hereby given to the proposals set out in the Schedule hereto.
- (3) The provisions set out in the Schedule hereto shall have effect as from 1st October, 2004 and as from that date the said Order shall be revoked.

NOTE: Enquiries should be addressed to **The Secretary, Joint Labour Committees, The Labour Court, Tom Johnson House, Haddington Road, Dublin 4** (Telephone 01-6136666, Extension Nos. 6639, 6640, 6641 and 6642. “Lo-call” number (if calling from outside (01) area) 1890 220 228).

SCHEDULE

PART I

GENERAL MINIMUM TIME-RATES

Weekly Rates

	From 1st October, 2004	From 1st November, 2004
Workers of 18 years of age and over	€278.85	€284.43
Workers under 18 years of age	€195.20	€199.10

NOTE: In the case of workers employed on piece-work, each piece-rate paid must be such as will yield, in the circumstances of the case to an ordinary worker, not less than the appropriate General Minimum Time-Rate.

Hourly Rate

The hourly rate should be ascertained by dividing by the appropriate number of hours as set out in Part II, Section I.

PART II

CONDITIONS OF EMPLOYMENT

SECTION I - Normal Working Hours:

- (a) The normal number of hours to be worked by workers in relation to whom the Committee operates shall be 39 hours per week.

In relation to workers under the age of 18, the provisions of the Protection of Young Persons (Employment) Act, 1996 shall apply.

- (b) The working week shall be one of 5 days, the off-days to be taken on the normal local short day, unless otherwise mutually agreed between the employer and worker.

PROVIDED THAT:-

- (i) All hours worked by a worker on the weekly off-day, on Sundays and on customary public or statutory holidays, shall be regarded as overtime to which the overtime rates shall apply.
- (ii) In any week in which one or more customary public or statutory holidays occur, the normal number of hours shall be less, in respect of each such holiday, the number of hours which would have been worked on such holiday if it had been a normal working day.

SECTION II - Overtime Rates:

The minimum rates for overtime, to apply in respect of hours worked by all workers, both full time and part-time, whether employed on time-work or on piece-work, in excess of 39 hours per week, shall be as follows:-

- (a) For all time worked in excess of the normal number of hours of work, the overtime rate shall be one-and-one half times the General Minimum Time-Rate otherwise applicable - i.e. time-and-a-half, except insofar as double time is payable under the provisions of paragraphs (b) and (c) of this section.
- (b) For all time worked on Sundays and on customary public or statutory holidays, the overtime rate shall be twice the General Minimum Time-Rate otherwise applicable - i.e. double time.
- (c) For all time worked in excess of four hours on the customary day off, the overtime rate shall be twice the General Minimum Time-Rate otherwise applicable - i.e. double time.

SECTION III - 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 contained in S.I. No. 17 of 2002 (Bullying in the Workplace), S.I. No. 78 of 2002, Employment Equality Act, 1998 (Code of Practice) (Harassment) Order, 2002 and S.I. No. 146 of 2000 (Grievance and Disciplinary Procedures) are to be noted.

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) In the event of a summary dismissal, no decision will be taken until this matter has been fully investigated by management.
- (b) The procedures will also 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 a Rights Commissioner, the Labour Relations Commission, the Labour Court, the Equality Authority or the Employment Appeals Tribunal or may pursue the matter under common law.

PART III

WORKERS IN RELATION TO WHOM THE COMMITTEE OPERATES

The minimum rates of remuneration and conditions of employment shall, subject to the provisions of the Industrial Relations Acts, 1946-2004 and of this Order, apply to all workers in respect of any time during which they are employed in any Branch of the Trade as specified hereunder:-

THE AERATED WATERS AND WHOLESALE BOTTLING TRADE, that is to say:

- (a) The manufacture, wherever carried on, of mineral or aerated waters, non-alcoholic cordials, flavoured syrups, unfermented sweet drinks and other similar beverages, and the manufacture, under licence, of brewed liquors elsewhere than upon the licensed premises of a cider manufacturer or a brewer of beer;
- (b) The operations of bottle-washing, bottling and filling and all other operations preparatory to the sale of any of the aforesaid liquors in bottles, jars, siphons, casks or other similar receptacles;
- (c) The operations of bottle-washing, bottling and filling and all subsidiary operations preparatory to the sale under a Beer Dealer's licence in bottles, jars and other similar receptacles of ale, stout, porter and other alcoholic beers, except where such operations are conducted or carried on upon the licensed premises of a brewer of beer, and
- (d) The operations of bottle-washing, bottling and filling and all subsidiary operations preparatory to the sale, by wholesale, of cider in bottles, jars or other similar receptacles, except where such operations are conducted or carried on upon the licensed premises of a cider manufacturer.

BUT EXCLUDING

Workers affected by a Registered Employment Agreement, that is, "an agreement relating to the remuneration or the conditions of employment of workers of any class, type or group made between a trade union of workers and an employer or trade union of employers or made, at a meeting of a registered joint industrial council, between members of the council representative of workers and members of the council representative of employers" and registered in the Register of Employment Agreements.

PART IV**ANNUAL LEAVE**

All employees are entitled to annual leave in accordance with the provisions of the Organisation of Working Time Act, 1997.

PART V**SERVICE PAY**

Workers who have been in continuous employment with the one employer to be granted service pay as follows:-

NUMBER OF YEARS EMPLOYMENT	5	10	15	20
<u>Service Pay</u>	€0.63	€1.27	€1.90	€2.54

PART VI**SERVICE PAY (WORKERS ON MINIMUM RATES)**

Only workers whose rates of pay are confined to the minimum basic rates specified in Part I and who have been in continuous employment with the one employer to be granted service pay as follows:-

NUMBER OF YEARS EMPLOYMENT	5	10	15	20
<u>Service Pay</u>	€1.27	€2.54	€3.17	€3.81

PART VII

PENSION SCHEME

1. Full pension will be 50% of final pensionable salary. Full pension to be earned at age 65 provided the employee had completed 40 years' continuous service. Provision for early retirement will be made in accordance with actuarial procedures.
2. Death benefit of an amount equivalent to 1½ years' salary shall be provided for dependants on the death of a member in service before age 65.
3. All eligible employees with 2 years' continuous service, aged 25 years and over and under 55, qualify for membership of the scheme.
4. The pension from age 65 shall be payable for the lifetime of the employee with a guarantee that, on the death of the member within five years of normal retiring age, member's pension would continue for the balance of five years to a dependent relative; otherwise there should be provision of an equivalent nature for a dependent relative.
5. Pensionable salary shall be the basic rate for the employee less an amount equivalent to twice the basic Social Welfare pension at the single person's rate. Final pensionable salary shall be the average pensionable salary over three years prior to retirement.
6. The foregoing shall be subject to a review in the event of the introduction of a pay related State pension scheme.

PART V111

SICK PAY SCHEME

- Eligibility:** All employees with 12 months' service.
- Duration:** No payment will be made in respect of the first 3 days. Benefits will be payable for a maximum of 15 weeks in any calendar year for a medically certified illness. A certificate signed by a medical practitioner must be produced by the third day of any absence on sick leave, specifying the nature of the illness. Where sick leave extends beyond the period initially certified, then further certification is required.
- Benefit:** In the case of full time employees, up to €32 per week subject to the sum of all benefits, i.e. both State and company benefits, not exceeding the individual's personal basic rate of pay.
For part-time employees, this benefit shall be applied on a pro-rata basis (i.e. the condition of employment concerned shall be related to the proportion which the normal hours of work of that part-time employee bears to the normal hours of work of the full-time comparable employee concerned).
- Contribution:** Full-time employee: €0.30 (max) may be deducted weekly.

Part-time employee: Deductions will be made on a pro-rata basis.

Employer: Twice the employees' contribution or appropriate as shall guarantee the above benefit.
- Notice:** It will be the worker's duty to ensure that the employer is informed of his absence from work due to illness before normal starting time on the first day of absence.
- Abuse:** Disciplinary procedures may be applied to any worker found to have abused the scheme.

PART IX**GENERAL**

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.

**Given under the Official Seal of
the Labour Court this 28th day of
September, 2004.**

L.S.

**KEVIN DUFFY
CHAIRMAN**

EXPLANATORY NOTE

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

This Instrument fixes minimum rates of pay and regulates statutory conditions of employment as from 1st October, 2004 for workers employed in the Aerated Waters and Wholesale Bottling Trade. It is made by the Labour Court on the Recommendation of the Aerated Waters and Wholesale Bottling Joint Labour Committee.