

Updated Guidance Document regarding Meal Allowances (January 2022)

Dear Member,

This updated guidance document regarding meal allowances takes into account the increase from 1st January 2022 in the National Minimum Wage and in the allowance for board which can be included in the minimum wage.

Background:

The issue of providing food for hotel staff and taking these meals into account in an employee's pay has given rise to robust and legal engagement between the IHF and the WRC in recent years.

This included the WRC seeking evidence that staff had availed of their three meal entitlements where full board was taken into account when determining employees' pay.

Separately, the WRC took the view that in order to comply with the Payment of Wages Act, 1991, employees' pay slips should clearly specify the **gross** pay *inclusive* of meal allowances. This interpretation could have had tax implications for both employer and employee.

This Updated Guidance Document offers some guidance on the options available to employers. There are potentially serious financial implications for members if the recommended procedures are not implemented correctly. If you are in any doubt as to how to proceed, please contact Nuala McLoughlin at mcloughlin@ihf.ie. Whilst the Guidance is offered by the IHF to support its members, this does **not** constitute legal advice.

Update from 1 January 2022

Under S.I. No. 517/2021 National Minimum Wage Order 2021, the minimum wage from 1 January 2022 is €10.50 *"The national minimum hourly rate of pay for the purposes of the National Minimum Wage Acts 2000 and 2015 shall be €10.50"*.

Furthermore, the allowance for board which can be included in the minimum wage has been increased to 0.94c *"The national minimum hourly rate of pay may include the following allowances: (i) for board only, €0. 94 per hour worked."*

Where meals are provided for Staff, there are a number of options available to employers.

Option a) No charge for food - Employees may avail of food provided and no charge will be made for this provision.

Option b) Subsidised Food – food is provided for employees at a subsidised rate.

Regarding **Option a and b** above, a taxable benefit **does not** arise in respect of free or subsidised meals in staff canteens where meals are provided for the staff generally. The facility must be available to **ALL** employees. Otherwise, the tax exemption does **NOT** apply.

Option c) The maximum amount is deducted from the employee's wages (as outlined above). By making a food deduction both employer and employee will be liable for tax. The payslip will show the gross amount before any deduction has been made for food. **(N.B. this option is NOT recommended)**

Option d) Employees pay for food as per normal cost to hotel customer

Option e) Employers take the meal allowance into account when calculating an employee's rate of pay.

Option e) allows an employee's pay slip to reflect the rate being paid **after** the meal allowance has been taken into account.

The maximum amount allowable is €0.94 per hour. This hourly method benefits employees in that the allowance is only taken into account in their pay for the number of hours they are on duty. However, an employee is still entitled to 3 meals per day, regardless of the number of hours on duty per day.

Example of hourly rate calculation from 1 January 2022

Hourly Rate:	€10.50 per hour
Meal Allowance:	€0.94 per hour
Hourly Rate including meals:	€9.56 per hour

Furthermore, if an employer chooses **Option e)** when calculating an employee's rate of pay, then an explanation or clarification of the legislation must be provided in the contract of employment and in Staff Handbook (or Employee Manual). The employer must also communicate clearly the entitlement to 3 meals per day, regardless of the number of hours on duty per day.

Contract of employment and Staff Handbook (or Employee Manual).

Please find below the **precise** wording which is recommended. We have used the example of an adult worker on the national minimum wage of €10.50 per hour. An hourly calculation of the meal allowance has been set at .94c.

Wording in Contract of Employment

Minimum Wage

"You are entitled to hourly remuneration of €9.56. In addition, you are entitled to board when rostered (three meals). The monetary value of this board (limited to €0.94c per hour) is a reckonable component of pay in accordance with the National Minimum Wage Acts 2000 and 2015 and has been taken into account in arriving at your pay. See Employees Handbook/Manual for further details"

Sunday Premium

"For workers who do not work Sundays, see clause [insert] above, entitled Minimum Wage

For workers who do work Sundays

"You are generally entitled to hourly remuneration of €9.56. For hours worked on Sundays, you are entitled to hourly remuneration of €10.61 which reflects a 10% premium (please adjust as appropriate for your own

Sunday Premium rate). *In addition, you are entitled to board when rostered (three meals). The monetary value of this board (limited to €0.94c per hour) is a reckonable component of pay in accordance with the National Minimum Wage Acts 2000 and 2015 and has been taken into account in arriving at your pay. See Employees Handbook/Manual for further details”*

Staff Handbook/Employee Manual

National Minimum Wage

The National Minimum Wage Acts 2000 and 2015 (the “NMWA”) provides that all employees must receive a minimum hourly rate of pay, which is currently €10.50 per hour. The calculation of this hourly rate of pay, in accordance with section 2 of the NMWA, includes “*all amounts of ...benefit-in-kind specified in Part 1 of the Schedule [e.g. board/lodgings], made or allowed by an employer to an employee in respect of the employee's employment”* .

The minimum hourly rate of pay includes an allowance for board when rostered (three meals) at the rate specified by the Minister¹ – at present this is €0.94 per hour². This is taken into account for hourly cash pay when calculating the national minimum hourly pay.

¹ Section 11(2) National Minimum Wage Act 2000; “*A national minimum hourly rate of pay may include an allowance for board with lodgings, board only or lodgings only at such rates as the Minister may specify in the order under subsection (1).*”

² S.I. No. 517/2021 National Minimum Wage Order 2021; “*The national minimum hourly rate of pay may include the following allowances: (i) for board only, €0. 94 per hour worked...*”

Staff Memo

Where the allowance for board is taken into account in the employee’s pay, the employer must communicate clearly the entitlement to 3 meals per day, regardless of the number of hours on duty per day. Evidence that all three meals are taken is **not** required under the law and the allowance can be lawfully taken into account once the employee has the *entitlement* to the three meals per day.

The proposed wording in the contract of employment and staff handbook/employee manual (as set out above) makes clear the employee’s entitlement in this regard. However, the IHF recommends that to ensure there is no doubt that employees are fully aware of their entitlements, and a way to convey to the WRC that their entitlements are fully and properly communicated to employees, members should consider putting up a staff memo in the staff canteen area or at some other appropriate place.

This memo is not a statement of law and any member with a particular query should contact Nuala McLoughlin on mcloughlin@ihf.ie or 01 4976459
