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(1) AERATED WATERS (E. & W.)

The Aerated Waters Wages Council (England and Wales) Wages Regulation Order, 1949

1949 No. 1348

Made - - - - 18*th July*, 1949
Coming into Operation 5*th August*, 1949

A.(37)

Whereas the Minister of Labour and National Service (hereinafter referred to as " the Minister ") has received from the Aerated Waters Wages Council (England and Wales) (hereinafter referred to as " the Council ")

(*a*) the wages regulation proposals set out in the First Schedule hereto, being proposals for fixing the remuneration to be paid by their employers to workers in relation to whom the Council operates in substitution for

the remuneration fixed for those workers by the Aerated Waters Wages Council (England and Wales) Wages Regulation Order 1946(a) (hereinafter referred to as "Order A.(31)") as amended by the Aerated Waters Wages Council (England and Wales) Wages Regulation Order 1948(b) (hereinafter referred to as "Order A.(33)"); and

(*b*) the wages regulation proposals set out in the Second Schedule hereto being proposals for amending the Aerated Waters Wages Council (England and Wales) Wages Regulation (Holidays) Order 1948(c) (hereinafter referred to as "Order A.(35)") which contains provisions requiring workers in relation to whom the Council operates to be allowed holidays by their employers and fixing holiday remuneration to be paid by their employers to those workers;

Now, therefore, the Minister, by virtue of the powers conferred on him by section 10 of the Wages Councils Act, 1945(d), and of all other powers in that behalf, hereby makes the following Order:—

Short title and interpretation

1.—(1) This Order may be cited as the Aerated Waters Wages Council (England and Wales) Wages Regulation Order 1949.

(2) In this Order the expression "the specified date" means the 5th day of August, 1949, provided that where as respects any worker who is paid wages at intervals not exceeding seven days that date does not correspond with the beginning of the period for which the wages are paid, the expression "the specified date" means, as respects that worker, the beginning of the next such period following that date.

(3) The Interpretation Act, 1889(e), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Fixing of statutory minimum remuneration and revocation of Order A.(31) *and Order A.*(33)

2.—(1) Effect is hereby given to the said wages regulation proposals set out in the First Schedule hereto.

(2) The provisions of the First Schedule hereto shall have effect as from the specified date and as from that date Order A.(31)(a) and Order A.(33)(b) shall cease to have effect.

Amendment of Order A.(35) *as to holidays and holiday remuneration*

3.—(1) Effect is hereby given to the said wages regulation proposals set out in the Second Schedule hereto.

(2) The provisions of the Second Schedule hereto shall have effect as from the specified date.

Signed by order of the Minister of Labour and National Service this 18th day of July, 1949.

Godfrey H. Ince,
Secretary of the
Ministry of Labour and National Service.

(a) S.R. & O. 1946 (No. 1984) I, p. 1724. (b) S.I. 1948 (No. 156) I, p. 4421.
(c) S.I. 1948 (No. 992) I, p. 4423. (d) 8 & 9 Geo. 6. c. 17.
(e) 52 & 53 Vict. c. 63.

FIRST SCHEDULE

The following minimum remuneration shall be substituted for the statutory minimum remuneration fixed by Order A.(31) as amended by Order A.(33).

STATUTORY MINIMUM REMUNERATION

PART I

GENERAL

Paragraph 1

(1) The minimum remuneration payable to a worker *other than a driver-salesman or delivery worker* to whom this Schedule applies for all work, except work to which a minimum overtime rate applies under Part V, is—

(*a*) in the case of a worker employed as a time worker, the hourly general minimum time rate applicable to the worker under the provisions of Part II or IV of this Schedule

(*b*) in the case of a worker employed on piece work, piece rates each of which would yield, in the circumstances of the case, to an ordinary worker at least the same amount of money as the piece work basis time rate applicable to the worker under Part II of this Schedule, or where no piece work basis time rate is applicable at least the same amount of money as the hourly general minimum time rate which would be payable if the worker were a time worker.

(2) *The minimum remuneration payable to a driver-salesman or delivery worker is the remuneration payable to the worker under the provisions of Part III of this Schedule.*

(3) For the purposes of this Schedule the expression " hourly general minimum time rate " means the general minimum time rate applicable to the worker under Part II or IV of this Schedule divided by 48 in the case of a worker aged 16 years or over and by 44 in the case of a worker under 16 years of age.

PART II

WORKERS OTHER THAN DRIVER-SALESMEN, DELIVERY WORKERS AND MATES

MALE WORKERS

GENERAL MINIMUM TIME RATES

Paragraph 2

The general minimum time rates applicable to all male workers (*other than driver-salesmen, delivery workers and mates*) are as follows:—

	Per week of 48 hours
	s. d.
Workers aged 21 years or over	94 0
" " 20 and under 21 years	74 0
" " 19 " " 20 "	64 0
" " 18 " " 19 "	55 0
" " 17 " " 18 "	48 0
" " 16 " " 17 "	42 0
	Per week of 44 hours
	s. d.
Workers aged under 16 years	34 10

PIECE WORK BASIS TIME RATE

Paragraph 3

	Per hour
	s. d.
The piece work basis time rate applicable to all male workers (*other than driver-salesmen, delivery workers and mates*) of any age employed on piece work is	2 4

FEMALE WORKERS

GENERAL MINIMUM TIME RATES

Paragraph 4

The general minimum time rates applicable to all female workers (*other than driver-salesmen, delivery workers and mates*) are as follows:—

	Per week of 48 hours s. d.
Workers aged 19 years or over	64 0
„ „ 18 and under 19 years	55 0
„ „ 17 „ „ 18 „	48 0
„ „ 16 „ „ 17 „	41 0
	Per week of 44 hours s. d.
Workers aged under 16 years	34 10

PIECE WORK BASIS TIME RATE

	Per hour s. d.
Paragraph 5	
The piece work basis time rate applicable to all female workers (*other than driver-salesmen, delivery workers and mates*) of any age employed on piece work is	1 6½

PART III

DRIVER-SALESMEN AND DELIVERY WORKERS

MALE AND FEMALE WORKERS

Paragraph 6

The minimum remuneration payable to a driver-salesman or delivery worker (as defined in paragraph 11 of this Schedule) for any week in which he is employed, whether or not he performs any work for his employer in that week, shall be—

(1) Where an overtime rate is payable under paragraph 9 of this Schedule—

the sum of the remuneration specified for that worker in the table in paragraph 7, and in paragraph 9 of this Schedule.

(2) Where no overtime is payable under paragraph 9 of this Schedule— the remuneration specified for that worker in the table in paragraph 7 of this Schedule.

Provided that—

(i) no remuneration shall be payable to the worker in any week throughout which he is not capable or not available for work;

(ii) the minimum remuneration payable in any week under this paragraph shall be reduced—

(a) by the amount of any holiday remuneration paid to the worker in respect of any day or days of annual holiday allowed to the worker in that week under a wages regulation order,

(b) by two-elevenths, in the case of a worker who normally works a 6 day week, and by one-fifth in the case of a worker who normally works a 5 day week, of the appropriate minimum remuneration specified in paragraph 7 of this Schedule in respect of any day throughout which the worker is absent from work on account of illness or accident or on which he is otherwise absent without the consent of the employer, except that should the absence in the circumstances aforesaid occur on the weekly short day in the case of a 6 day worker, the deduction shall be one-eleventh for that day.

(3) Subject to the provisions of sub-paragraph (2) of this paragraph, in any week in which the worker is employed but does not perform any work for his employer the remuneration applicable to the worker shall be the remuneration normally applicable to the worker under the table in paragraph 7 of this Schedule.

(4) Where a worker in any week drives more than one of the types of vehicle specified in the table set out in paragraph 7 of this Schedule, he shall be paid for that week at the highest rate set out in that table applicable to him during that week.

Paragraph 7

The table of remuneration referred to in paragraph 6 of this Schedule is as follows:—

Class of worker	Type of Vehicle		Remuneration
	Mechanically propelled vehicle with carrying capacity (as defined in paragraph 11) of	Horse-drawn vehicle	s. d.
DRIVER-SALESMEN of any age	Any weight ...	One or two horse	104 0
DELIVERY WORKERS— aged 21 years or over ...	1 ton or less ...		104 0
„ 20 and under 21 years ...			88 0
„ 19 „ „ 20 „ ...			78 0
„ 18 „ „ 19 „ ...			70 0
„ under 18 years			62 0
of any age	Over 1 ton and up to 2 tons.	One horse ...	104 0
	Over 2 tons and up to 5 tons.	Two horse ...	110 0
	Over 5 tons and up to 8 tons.		116 0
	Over 8 tons and up to 12 tons.		120 0
	Over 12 tons ...		124 0

PART IV

MATES

MALE AND FEMALE WORKERS

GENERAL MINIMUM TIME RATES

Paragraph 8

The general minimum time rates applicable to male or female workers employed as mates (as defined in paragraph 11 of this Schedule) are as follows:—

	Per week of 48 hours s.	d.
Workers aged 21 years or over	*100*	*0*
„ „ 20 and under 21 years	*80*	*0*
„ „ 19 „ „ 20 „	*72*	*0*
„ „ 18 „ „ 19 „	*66*	*0*
„ „ 17 „ „ 18 „	*50*	*0*
„ „ 16 „ „ 17 „	*44*	*0*

	Per week of 44 hours s.	d.
Workers aged under 16 years	*36*	*6*

PART V

OVERTIME AND WAITING TIME

ALL WORKERS

MINIMUM OVERTIME RATES

Paragraph 9

Subject to the provisions of paragraph 6 of this Schedule and of this paragraph, overtime is payable at the following minimum rates:—

(1) To any worker *other than a driver-salesman or delivery worker*—

(*a*) On a Sunday or customary holiday, for all time worked .. .. — Double Time

(*b*) On the weekly short day, for all time worked in excess of 4½ hours .. .. — Time-and-a-half

(*c*) In any week, exclusive of any time in respect of which a minimum overtime rate is payable under the foregoing provisions of this sub-paragraph—

(i) For the first 2 hours worked in excess of 48 hours in the case of a worker aged 16 years or over, or 44 hours in the case of a worker under 16 years of age .. — Time-and-a-quarter

(ii) thereafter .. .. — Time-and-a-half

(2) *To a driver-salesman or delivery worker*—

(*a*) *On a Sunday, for all time worked* .. .. — *Double Time*

(*b*) *On a Saturday, for all time worked in excess of 4½ hours* .. .. — *Time-and-a-half*

(*c*) *In any week exclusive of any time in respect of which a minimum overtime rate is payable under (a) or (b) of this sub-paragraph—*

(*i*) *For the first 8 hours worked in excess of 48 hours in the case of a worker aged 16 years or over, or 44 hours in the case of a worker under 16 years of age* .. — *Time-and-a-quarter*

(*ii*) *thereafter* .. .. — *Time-and-a-half*

WAITING TIME

Paragraph 10

(1) A worker is entitled to payment of the minimum remuneration specified in this Schedule for all time during which he is present on the premises of his employer unless he is present thereon in any of the following circumstances:—

(*a*) without the employer's consent, express or implied;

(*b*) for some purpose unconnected with his work and other than that of waiting for work to be given to him to perform;

(*c*) by reason only of the fact that he is resident thereon;

(*d*) during normal meal times in a room or place in which no work is being done, and he is not waiting for work to be given to him to perform.

(2) The minimum remuneration payable under sub-paragraph (1) of this paragraph to a piece worker when not engaged on piece work is that which would be applicable if he were a time worker.

PART VI

DEFINITIONS

Paragraph 11

For the purposes of this Schedule—

"CARRYING CAPACITY" means the weight of the maximum load normally carried by a mechanically propelled vehicle, and such carrying capacity when so established shall not be affected either by variations in the weight of the load resulting from collections or deliveries or emptying of containers during the course of the journey, or by the fact that on any particular journey a load greater or less than the established carrying capacity is carried.

Where a trailer is attached to the vehicle the load shall be the loads of the vehicle and the trailer combined.

"CUSTOMARY HOLIDAY" means Christmas Day, Boxing Day, Good Friday, Easter Monday, Whit Monday, August Bank Holiday and any day proclaimed as an additional Bank Holiday or a general holiday.

"DELIVERY WORKER" means a worker who normally is in charge of and wholly or mainly engaged in driving a mechanically propelled or horse drawn vehicle and in work in connection with the vehicle and its load (if any) while on the road and, if so required by the employer, in washing the vehicle when not on the road. Provided that where a worker who is not normally employed as a delivery worker is in any week called upon to perform the work of a delivery worker the worker shall for that week be regarded as a delivery worker.

"DRIVER-SALESMAN" means a worker who normally is wholly or mainly engaged in the duties of a delivery worker as defined above and in the sale of goods to and the collection of monies from customers. Provided that where a worker who is not normally employed as a driver-salesman is in any week called upon to perform the work of a driver-salesman the worker shall for that week be regarded as a driver-salesman.

"MATE" means a worker other than a driver-salesman or delivery worker who is required to travel on or to accompany a mechanically propelled or horse drawn vehicle for the purpose of assisting the driver-salesman or delivery worker in charge of the vehicle.

"TIME-AND-A-QUARTER," "TIME-AND-A-HALF" and "DOUBLE TIME" mean respectively:—

(*a*) in the case of workers *other than delivery workers and driver-salesmen*—

one and a quarter times, one and a half times and twice the minimum remuneration payable to the worker for work to which a minimum overtime rate does not apply

(*b*) *in the case of delivery workers and driver-salesmen*—

one and a quarter times, one and a half times and twice the rate obtained by dividing the remuneration specified in the table in paragraph 7 of this Schedule by 48 in the case of workers aged 16 years or over and by 44 in the case of workers under 16 years of age.

"WAGES REGULATION ORDER" means a wages regulation order for the time being in force made by the Minister to give effect to proposals of the Council.

"WEEK" means pay week.

"WEEKLY SHORT DAY" means Saturday or (except where in the case of a woman or young person such substitution is unlawful) any day, other than Sunday, which may be substituted therefor by agreement in writing between the employer and the worker.

PART VII

APPLICABILITY OF STATUTORY MINIMUM REMUNERATION

Paragraph 12

This Schedule applies to workers in relation to whom the Aerated Waters Wages Council (England and Wales) operates, that is to say, workers employed in England and Wales in the trade specified in the Schedule to the Aerated Waters Wages Council (England and Wales) (Variation) Order, 1948(a), *that is to say:—*

(*1*) *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 in unlicensed premises of brewed liquors,*
Including—

(*a*) *the operations of bottle washing, bottling and filling, and all other operations preparatory to the sale of any of the aforesaid beverages or liquors in bottles, jars, syphons, casks, or other similar receptacles; and*

(*b*) *the transport and delivery of any of the aforesaid beverages or liquors (and operations incidental thereto including the collection of empty bottles or containers) when carried on as an activity of the undertaking engaged in the manufacture thereof, by persons in the employment of that undertaking, and operations involved in the sale by retail of any of such beverages or liquors when sold in the course of a delivery round by a driver-salesman or delivery salesman employed in the undertaking which manufactures the said beverages or liquors.*

(2) *The following operations when carried on in association or in conjunction with any of the operations specified in (a) of sub-paragraph (1) of this paragraph so as to form a common or interchangeable form of employment for workers and whether carried on simultaneously with those operations or not, that is to say all subsidiary operations preparatory to the sale in bottles, jars or other similar receptacles of cider, ale, stout, porter or other alcoholic beers, including the operations of bottle washing, bottling and filling.*

(a) S.I. 1948 (No. 705) I, p. 4395.

SECOND SCHEDULE

HOLIDAYS AND HOLIDAY REMUNERATION

Order A.(35) shall have effect as if in the Schedule thereto:—

(A.) For paragraph 1 there were substituted the following paragraph—

"Paragraph 1

This Schedule applies to every worker, *including driver-salesmen, delivery workers and mates,* for whom statutory minimum remuneration has been fixed."

(B.) For (*b*) of sub-paragraph (2) of paragraph 2 there were substituted the following:—

"(*b*) *The number of days of annual holiday to be allowed to a driver-salesman or a delivery worker or a mate during the holiday season ending on the 24th day of October, 1949, shall be reduced by the number of days (if any) of holiday with pay which have been allowed by the employer to and taken by the worker during the period commencing on the 31st day of March, 1949, and ending on the 5th day of August, 1949.*"

(C.) There were added in paragraph 11 (1) immediately before the expression "normal working week" the following:—

"*DELIVERY WORKER*" *means a worker who normally is in charge of and wholly or mainly engaged in driving a mechanically propelled or horse drawn vehicle and in work in connection with the vehicle and its load (if any) while on the road and, if so required by the employer, in washing the vehicle when not on the road. Provided that where a worker who is not normally employed as a delivery worker is in any week called upon to perform the work of a delivery worker the worker shall for that week be regarded as a delivery worker.*

"*DRIVER-SALESMAN*" *means a worker who normally is wholly or mainly engaged in the duties of a delivery worker as defined above and in the sale of goods to and the collection of monies from customers. Provided that where a worker who is not normally employed as a driver-salesman is in any week called upon to perform the work of a driver-salesman the worker shall for that week be regarded as a driver-salesman.*

"*MATE*" *means a worker other than a driver-salesman or a delivery worker who is required to travel on or to accompany a mechanically propelled or horse drawn vehicle for the purpose of assisting the driver-salesman or delivery worker in charge of the vehicle.*

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order which has effect from the 5th August, 1949, sets out, in the First Schedule, the statutory minimum remuneration payable to workers in relation to whom the Aerated Waters Wages Council (England and Wales) operates, including for the first time transport and delivery workers.

It revokes the Aerated Waters Wages Council (England and Wales) Wages Regulation Order, 1946 (Order A.(31)) and the Aerated Waters Wages Council (England and Wales) Wages Regulation Order, 1948 (Order A.(33)).

The Order also amends, in the Second Schedule, the Aerated Waters Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1948 (Order A.(35)) by bringing transport and delivery workers within the scope of the provisions.

New provisions are printed in italics.