STATUTORY INSTRUMENTS

1985 No. 1270

TERMS AND CONDITIONS OF EMPLOYMENT

The Guarantee Payments (Exemption) (No. 22) (Amendment) Order 1985

Made - - - -	*6th August* 1985
Coming into Operation	*27th September* 1985

Whereas the Substantive Agreement of the Joint Negotiating Council for the U.K. Confectionery Division of Rowntree Mackintosh plc made between the parties described in Schedule 1 to the Guarantee Payments (Exemption) (No. 22) Order 1983(**a**) ("the principal Order") has been amended by the said parties:

And whereas the said Substantive Agreement, as so amended, is a collective agreement ("the amended collective agreement"):

And whereas the amended collective agreement makes provision whereby employees to whom that agreement relates have a right to guaranteed remuneration:

And whereas the amended collective agreement complies with section 18(4) of the Employment Protection (Consolidation) Act 1978(**b**) ("the Act"):

And whereas the said parties have made application to the Secretary of State under section 18(5) of the Act for variation of the principal Order:

And whereas the Secretary of State having regard to the provisions of the amended collective agreement (which so far as are material are set out in Schedule 2 to the principal Order as amended by this Order), is satisfied that section 12 of the Act should not apply to those employees:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him as the appropriate Minister under section 18(1) and (5) of the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and Commencement

1. This Order may be cited as the Guarantee Payments (Exemption) (No. 22) (Amendment) Order 1985 and shall come into operation on 27th September 1985.

(**a**) S.I. 1983/571.
(**b**) 1978 c. 44.

Amendment of the principal Order

2. The Guarantee Payments (Exemption) (No. 22) Order 1983 shall be amended by the substitution of the Schedule to this Order for Schedule 2 to that Order.

Signed by order of the Secretary of State.

Peter Bottomley,
Joint Parliamentary Under Secretary of State,
Department of Employment.

6th August 1985.

Article 2 SCHEDULE

MATERIAL PROVISIONS OF THE COLLECTIVE AGREEMENT

7. *Guaranteed Week*

(*a*) Where, for any reason, it becomes necessary for Management to lay employees off work or place them on short-time working, employees with 4 weeks' continuous service with the Company, (ending with the last complete week before lay-off), will be guaranteed payment for the hours of lay-off which form part of their normal working week, (exclusive of any overtime), at the rates and to the scale set out in paragraph (*b*) below.

(*b*) The maximum entitlement of full time employees to payment under this arrangement shall be limited to:

24 Hours at their normal hourly rate of pay, including any shift or night payments in appropriate cases,
16 Hours at 75% of that same rate,
40 Hours at 60% of that same rate,

in each of the four 3 monthly periods 1 February, 1 May, 1 August and 1 November in each year. The scale of hours of payment for part-time employees (less than 39 hours per week) will be pro rata to their Contract or current normal working hours. If the above rates of payment are less than the effective rate of payment required under the Employment Protection (Consolidation) Act 1978, Section 12 et seq, the latter shall be paid.

(*c*) Entitlement to payment under the above guarantee will be conditional upon:

(i) The employee continuing to be available and willing to work during the period of lay-off on his or her usual work, or on any alternative work if his or her usual work is not available, even where such alternative work is not that which the employee is under his or her Contract employed to perform, provided only that it is within the capabilities of the individual concerned.

(ii) The employee having been in attendance at work on the normal turn of work immediately preceding the lay-off, unless excused by prior arrangement or certificated sickness.

(iii) The employee not being on holiday, absent sick, or unable to attend for any other reason at the time of the lay-off.

(iv) The employee not being dismissed or suspended by reason of misconduct.

(*d*) This guarantee:

(i) Shall not apply when work is not available or is interrupted or disrupted by reason of a strike or any restrictive action arising out of a trade dispute involving any employee of Rowntree Mackintosh plc or of an associated employer in the United Kingdom.

(ii) Shall apply only to such extent as is necessary to comply with, and not exceed, the provisions of the Employment Protection (Consolidation) Act 1978, in the event of work not being available, or interrupted or disrupted by reason of a strike or any restrictive

action arising out of a trade dispute, other than in (*d*)(i) above, outside the Company's establishments.

(iii) Shall not preclude such rearrangement of the normal working week as may be necessary to maintain economic production in the event of restriction on or interruptions in the use or supply of electricity, water, gas or other essential services and materials, in which event for the purpose of this guarantee the "normal working week" will comprise the revised working week.

(*e*) Any employee covered by this agreement who considers that he or she has not received the remuneration due to them under the guarantee in respect of any lay-off, should raise this issue in accordance with the local factory procedure for dealing with individual grievances relating to employment. Failing resolution at local level, arrangements will be made for the matter to be referred to an independent arbitrator (or arbitrators) appointed by ACAS whose decision will be accepted by both parties. No form of industrial action or non-co-operation will be taken by either party during the operation of this procedure.

(*f*) Notwithstanding (*e*) above, any employee covered by this agreement shall also have the right to complain to an industrial tribunal that the Company has failed to pay the whole or any part of the payment to which he or she may be entitled under this guarantee. The complaint shall be presented to the tribunal within 3 months of the day or days of lay-off which are the subject of complaint, unless the tribunal accepts that delay beyond this time limit was not unreasonable. The Company will abide by the ruling of the tribunal in relation to any payments to be made under the terms of the guarantee.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on 27th September 1985, amends the Guarantee Payments (Exemption) (No. 22) Order 1983. That Order excludes from the operation of section 12 of the Employment Protection (Consolidation) Act 1978 employees to whom the Substantive Agreement of the Joint Negotiating Council for the UK Confectionery Division of Rowntree Mackintosh plc made between the parties described in Schedule 1 to that Order relates. The present Order amends the 1983 Order by substituting a new Schedule 2 which incorporates a revision of Clause 7 of the Collective Agreement.

Copies of the Agreement are available for inspection between 10 am and noon and between 2 pm and 5 pm on any weekday (except Saturdays) at the offices of the Department of Employment, Caxton House, Tothill Street, London SW1H 9NF.

SI 1985/1270
ISBN 0-11-057270-X

