1953 No. 144

The Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1953

Made - - - - 3*rd February*, 1953

Coming into Operation 23*rd February*, 1953

Whereas the Minister of Labour and National Service (hereinafter in this Order referred to as " the Minister ") has received from the Milk Distributive Wages Council (Scotland) the wages regulation proposals set out in the Schedule hereto ;

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

1. This Order may be cited as the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1953.

2.—(1) In this Order the expression " the specified date " means the 23rd day of February, 1953, 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.

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

3. The wages regulation proposals set out in the Schedule hereto shall have effect as from the specified date and as from that date the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1947(c), shall cease to have effect and the Milk Distributive Wages Council (Scotland) Wages Regulation Order, 1952(d), shall have effect as if the Second Schedule thereto were omitted.

Signed by order of the Minister of Labour and National Service this 3rd day of February, 1953.

H. H. Wiles,
Deputy Secretary,
Ministry of Labour and National Service.

SCHEDULE

The following provisions as to holidays and holiday remuneration shall be substituted for the provisions as to holidays and holiday remuneration set out in the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1947 (Order M.D.S. (47)) as amended by the Milk Distributive Wages Council (Scotland) Wages Regulation Order, 1952 (Order M.D.S. (59)).

(a) 8 & 9 Geo. 6. c. 17.
(b) 52 & 53 Vict. c. 63.
(c) S.R. & O. 1947/874; 1947 I, p. 2519
(d) S.I. 1952/1526; 1952 III, p. 3738.

PART I

APPLICATION

Paragraph 1

This Schedule applies to every worker for whom statutory minimum remuneration has been fixed.

PART II

ANNUAL HOLIDAYS

Paragraph 2

(1) Subject to the provisions of the next following sub-paragraph, an employer shall between the 1st day of April and the 31st day of October, 1953, and in each succeeding year between the 1st day of April and the 31st day of October (hereinafter in this Schedule referred to as "the holiday season") allow a holiday (hereinafter in this Schedule referred to as "an annual holiday") to every worker in his employment to whom this Schedule applies, who was employed by him during the twelve months immediately preceding the commencement of the holiday season for any of the periods of employment (calculated in accordance with the provisions of paragraph 9 of this Schedule) specified in the table below, and the duration of the holiday shall, in the case of each such worker, be related to his period of employment during that twelve months as follows:—

Period of employment	*Duration of annual holiday for workers with a normal working week of—*		
	More than five days	*Five days*	*Four days or less*
Column 1	*Column 2*	*Column 3*	*Column 4*
At least 48 weeks ...	*12 days*	*10 days*	*8 days*
„ „ 44 „ ...	*11* „	*9* „	*7* „
„ „ 40 „ ...	*10* „	*8* „	*6* „
„ „ 36 „ ...	*9* „	*7* „	*6* „
„ „ 32 „ ...	*8* „	*6* „	*5* „
„ „ 28 „ ...	*7* „	*5* „	*4* „
„ „ 24 „ ...	*6* „	*5* „	*4* „
„ „ 20 „ ...	*5* „	*4* „	*3* „
„ „ 16 „ ...	*4* „	*3* „	*2* „
„ „ 12 „ ...	*3* „	*2* „	*2* „
„ „ 8 „ ...	*2* „	*1 day*	*1 day*
„ „ 4 „ ...	*1 day*	*1* „	—

(2) Notwithstanding the provisions of the last foregoing sub-paragraph the numbers of days of annual holiday which an employer is required to allow to a worker in any holiday season shall not exceed in the aggregate twice the number of days constituting the worker's normal working week.

Paragraph 3

Subject to the provisions of paragraph 4 of this Schedule, annual holidays under this Schedule shall be allowed on consecutive working days, being days on which the worker is normally called upon to work for the employer and days of annual holiday shall be treated as consecutive notwithstanding that some other holiday, a *rest day* or a day upon which the worker is not normally required to work for the employer intervenes.

Paragraph 4

A day of annual holiday shall not be allowed to a worker on a *rest day* or on any day on which he is entitled to a holiday under any enactment other than the Wages Councils Act, 1945.

Paragraph 5

An employer shall give to a worker reasonable notice of the commencing date and duration of his holiday. Such notice may be given individually to a worker or by the posting of a notice in the place where the worker is employed.

PART III

HOLIDAY REMUNERATION

Paragraph 6

Subject to the provisions of paragraph 7 of this Schedule, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer in respect thereof, on the last pay day preceding such annual holiday, remuneration in accordance with the following table:—

TABLE OF HOLIDAY REMUNERATION

Col. 1 Period of Annual Holiday	Col. 2 Holiday remuneration for workers with a normal working week of—			Col. 3
	More than five days	Five days	Four days or less	
12 days	Twice the amount in Col. 3.	—	—	The amount which the worker would be entitled to receive from his employer, at the beginning of the holiday, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime) and if paid as a time worker at the appropriate rate of statutory minimum remuneration, fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
11 days	One and five-sixths times the amount in Col. 3.	—	—	
10 days	One and two-thirds times the amount in Col. 3.	Twice the amount in Col. 3.	—	
9 days	One and one-half times the amount in Col. 3.	One and four-fifths times the amount in Col. 3.	—	
8 days	One and one-third times the amount in Col. 3.	One and three-fifths times the amount in Col. 3.	Twice the amount in Col. 3.	
7 days	One and one-sixth times the amount in Col. 3.	One and two-fifths times the amount in Col. 3.	One and three-quarters times the amount in Col. 3.	
6 days	The amount in Col. 3.	One and one-fifth times the amount in Col. 3.	One and one-half times the amount in Col. 3.	
5 days	Five-sixths of the amount in Col. 3.	The amount in Col. 3.	One and one-quarter times the amount in Col. 3.	
4 days	Two-thirds of the amount in Col. 3.	Four-fifths of the amount in Col. 3.	The amount in Col. 3.	
3 days	One-half of the amount in Col. 3.	Three-fifths of the amount in Col. 3.	Three-quarters of the amount in Col. 3.	
2 days	One-third of the amount in Col. 3.	Two-fifths of the amount in Col. 3.	One-half of the amount in Col. 3.	
1 day	One-sixth of the amount in Col. 3.	One-fifth of the amount in Col. 3.	One-quarter of the amount in Col. 3.	

Paragraph 7

Where in accordance with the provisions of this Schedule, or of Order M.D.S. (47), as amended by Order M.D.S. (59), any accrued holiday remuneration has been paid by the employer to the worker in respect of any period of employment in the twelve months immediately preceding the holiday season within which an annual holiday is allowed by the employer to the worker in accordance with the provisions of this Schedule, the amount of holiday remuneration payable by the employer in respect of the said annual holiday under the provisions of paragraph 6 of this Schedule shall be reduced by the amount of the said accrued holiday remuneration.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

Paragraph 8

Where a worker ceases to be employed by an employer after the provisions of this Schedule become effective the employer shall, immediately on the termination of the employment, pay to the worker as accrued holiday remuneration:—

(1) *in respect of employment in the twelve months up to the 31st day of the preceding March, a sum equal to the holiday remuneration which would have been payable for any days of annual holiday for which he has qualified (except days of annual holiday which he has been allowed or has become entitled to be allowed before leaving the employment) if they were allowed at the time of leaving the employment; and*

(2) *in respect of any employment since the 31st day of the preceding March, a sum equal to the holiday remuneration which would have been payable to him if he could have been allowed an annual holiday in respect of that employment at the time of leaving it:*

Provided that no worker shall be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of misconduct in connection with his employment and is so informed by his employer at the time of dismissal.

PART IV

GENERAL

Paragraph 9

For the purposes of calculating any period of employment qualifying a worker for an annual holiday or for any accrued holiday remuneration under this Schedule, the worker shall be treated:—

(1) as if he were employed for a week in respect of any week in which—

(*a*) he has worked for the employer for not less than twenty-four hours and has performed some work for which statutory minimum remuneration is payable; or

(*b*) (i) he has been absent throughout the week, or

(ii) *he has worked for the employer for less than twenty-four hours* solely by reason of the proved illness of, or accident to, the worker: Provided that the number of weeks which may be treated as weeks of employment for such reasons shall not exceed eight weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; or

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order M.D.S. (47), as amended by Order M.D.S. (59), and for the purposes of sub-paragraph (1) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon the number of hours ordinarily worked by him on that day of the week for the employer on work for which statutory minimum remuneration is payable.

Paragraph 10

In this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"normal working week" means the number of days on which it has been usual for the worker to work in a week in the employment of the employer in the twelve months immediately preceding the commencement of the holiday season or, where under paragraph 8 of this Schedule accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the date of the termination of the employment:

Provided that—

(i) part of a day shall count as a day;

(ii) no account shall be taken of any week in which the worker did not perform any work for which statutory minimum remuneration has been fixed.

"rest day" means one day in each week which has been notified by the employer to the worker before the commencement of that week as a rest day or, failing such notification, Sunday.

"statutory minimum remuneration" means statutory minimum remuneration (other than holiday remuneration) fixed by a wages regulation order.

"wages regulation order" means a wages regulation order made by the Minister to give effect to proposals submitted to him by the Milk Distributive Wages Council (Scotland).

"week" in paragraphs 2 and 9 means "pay week".

Paragraph 11

The provisions of this Schedule are without prejudice to any agreement for the allowance of any further holidays with pay or for the payment of additional holiday remuneration.

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 23rd February, 1953, sets out the holidays which an employer is required to allow to workers and the remuneration payable for those holidays, in substitution for the holidays and holiday remuneration fixed by the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1947 (Order M.D.S. (47)), as amended by the Milk Distributive Wages Council (Scotland) Wages Regulation Order, 1952 (Order M.D.S. (59)). Order M.D.S. (47) is revoked.

New provisions in the Schedule are printed in italics.