1965 No. 1921

TERMS AND CONDITIONS OF EMPLOYMENT

The Redundancy Payments Shift and Rota Workers Regulations 1965

Made - - - -	5*th November* 1965
Laid before Parliament	15*th November* 1965
Coming into Operation	6*th December* 1965

The Minister of Labour in exercise of the powers conferred on him by paragraph 5 of Schedule 1 and paragraph 2 of Schedule 2 to the Redundancy Payments Act 1965(a) and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Redundancy Payments Shift and Rota Workers Regulations 1965 and shall come into operation on the 6th December 1965.

Interpretation

2.—(1) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

" the Act " means the Redundancy Payments Act 1965;

" the appropriate period " has the meaning assigned to it by Regulation 3;

" employee " has the meaning assigned to it in subsection (1) of section 25 of the Act and includes any person in respect of whom the Act has effect as if he were an employee within the meaning of that subsection;

" employer " has the meaning assigned to it in subsection (1) of section 25 of the Act and includes any person in respect of whom the Act has effect as if he were an employer within the meaning of that subsection: Provided that in a case where an employee's remuneration is by virtue of any statutory provision payable to him by a person other than his employer " employer " means that other person;

" normal working hours " has the same meaning as it has for the purposes of Schedule 2 to the Contracts of Employment Act 1963(c);

" week " has the meaning assigned to it by section 5(3) of the Act;

" a week's pay " is, in the case of an employee in respect of whose employment these Regulations apply, the amount calculated as such in accordance with Regulation 5.

(a) 1965 c. 62. (b) 52 & 53 Vict. c. 63. (c) 1963 c. 49.

Meaning of " the appropriate period "

3. In these Regulations " the appropriate period " means—

(*a*) in the case of an employee who is entitled to a redundancy payment on the ground that he has been dismissed by his employer, the period of 12 consecutive weeks immediately preceding the date upon which that employer had, or would have had, to give the employee notice under section 1(1) of the Contracts of Employment Act 1963 to terminate the contract of employment on the relevant date;

(*b*) in the case of an employee who is entitled to a redundancy payment by reason of being laid-off or kept on short-time or as respects whom it falls to be determined whether he has been laid-off or kept on short-time—

(i) for four or more consecutive weeks, or

(ii) for a series of six or more weeks (of which not more than three were consecutive) within a period of thirteen weeks as mentioned in section 6(1) of the Act—

the period of twelve consecutive weeks immediately preceding the first of the said four weeks or six weeks, as the case may be.

Application

4. These Regulations apply if—

(*a*) there were normal working hours for the employee when employed under his contract of employment, and

(*b*) at any time during the appropriate period he worked during those hours on days of the week or at times of the day (or both on such days and at such times) which differed from week to week or over a longer period so that the remuneration payable for, or apportionable to, the weeks in which he so worked during the said period varied according to the incidence of the said days or times, or both of them.

Calculation of a week's pay

5.—(1) In the case of an employee in respect of whose employment these Regulations apply the amount of a week's pay shall be the sum produced by multiplying the amount of the average hourly rate of remuneration of the employee (calculated in accordance with paragraphs (2), (3), (4) and (5) of this Regulation) by the number of his average weekly hours (calculated in accordance with paragraph (6) of this Regulation).

(2) In arriving at the said average hourly rate of remuneration only the hours when the employee was working, and only the remuneration payable for, or apportionable to, those hours of work, shall be brought in and, subject to paragraph (5) of this Regulation, the period for which the said average hourly rate of remuneration shall be taken shall be the appropriate period.

(3) Where, in arriving at the said average hourly rate of remuneration account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if—

(*a*) the work had been done in normal working hours, and

(*b*) the amount of that remuneration had been reduced accordingly.

(4) For the purposes of the application of the last preceding paragraph to a case falling within paragraph 1(2) of Schedule 2 to the Contracts of Employment

Act 1963, the last preceding paragraph shall be construed as if, for the words " had been done in normal working hours ", in each place where those words occur, there were substituted the words " had been done in normal working hours falling within the number of hours without overtime (as defined by paragraph 1 of Schedule 2 to the Contracts of Employment Act 1963 ".

(5) If for any week falling within the appropriate period no such remuneration as is mentioned in paragraph (2) of this Regulation was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks of which account is taken up to 12.

(6) The average weekly hours shall be calculated by dividing by 12 the total number of the employee's normal working hours during the appropriate period.

Dated 5th November 1965.

R. J. Gunter,

Minister of Labour.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide how a week's pay is to be calculated, either for ascertaining the amount of a redundancy payment or for determining the extent of short-time working, in the case of an employee who works on a system of shifts or on a rota or similar system whereby his remuneration for his normal working hours varies according to the day, or the time of day, of the shift or turn of duty.