STATUTORY INSTRUMENTS

1972 No. 1858

WAGES COUNCILS

The Wages Regulation (Aerated Waters) (England and Wales) Order 1972

Made - - - 30*th November* 1972

Coming into Operation 28*th December* 1972

Whereas the Secretary of State has received from the Aerated Waters Wages Council (England and Wales) the wages regulation proposals set out in the Schedule hereto;

Now, therefore, the Secretary of State in exercise of powers conferred by section 11 of the Wages Councils Act 1959(**a**) and now vested in him (**b**), and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Wages Regulation (Aerated Waters) (England and Wales) Order 1972.

2.—(1) In this Order the expression "the specified date" means the 28th December 1972, provides 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(**c**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if this Order and the Order hereby revoked were Acts 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 Wages Regulation (Aerated Waters) (England and Wales) Order 1970(**d**) shall cease to have effect.

Signed by order of the Secretary of State.

30th November 1972.

W. H. Marsh,
Assistant Secretary,
Department of Employment.

(**a**) 1959 c. 69.
(**b**) S.I. 1959/1769, 1968/729 (1959 I, p. 1795; 1968 II, p. 2108).
(**c**) 1889 c. 63.
(**d**) S.I. 1970/605 (1970 I, p. 1929).

SCHEDULE Article 3

The following minimum remuneration shall be substituted for the statutory minimum remuneration fixed by the Wages Regulation (Aerated Waters) (England and Wales) Order 1970 (Order A. (78)).

STATUTORY MINIMUM REMUNERATION

PART I

GENERAL

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 hourly general minimum time rate which would by payable to the worker under Part II of this Schedule if he 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 41.

PART II

WORKERS OTHER THAN DRIVER-SALESMEN, DELIVERY WORKERS AND MATES

MALE AND FEMALE WORKERS—GENERAL MINIMUM TIME RATES

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

	Per week of 41 hours £
(1) Male workers aged 19 years or over—	
(*a*) *Up to and including 30th December 1973* Aged:—	
21 years or over	*16·10*
20 and under 21 years	*13·85*
19 „ „ 20 „	*13·60*
(*b*) *On and after 31st December 1973* Aged 19 years or over	*16·10*
(2) Female workers aged 19 years or over—	
(*a*) *Up to and including 30th December 1973*	*13·60*
(*b*) *On and after 31st December 1973*	*14·85*
(3) All workers aged—	
18 and under 19 years	*11·45*
17 „ „ 18 „	*10·20*
16 „ „ 17 „	*8·50*
Under 16 years	*7·10*

PART III

DRIVER-SALESMEN AND DELIVERY WORKERS

MALE OR FEMALE WORKERS

A—FULL TIME WORKERS

3.—(1) Subject to the provisions of this paragraph, the minimum remuneration payable to a full time driver-salesman or a full time delivery worker for any week in which he is employed, whether he performs any work for his employer in the week or not, is the remuneration specified in the table set out in paragraph 4 applicable to the worker in that week and in addition the amount (if any) payable to the worker in respect of overtime worked in the week under the provisions of paragraph 7:

Provided that no remuneration shall be payable to the worker for any week throughout which he is not capable of, or not available for, work.

(2) The minimum remuneration payable in respect of any week under the foregoing provisions of this paragraph shall be reduced in respect of any day in the week—

(*a*) allowed to the worker as a day of annual holiday under the provisions of a wages regulation order, by the amount of holiday remuneration paid in respect of the day;

(*b*) throughout which the worker is absent from work by reason of illness or accident or without the consent of his employer—

(i) where the worker normally works for the employer on six days a week and the day of absence is not the worker's weekly short day, by two-elevenths or,

(ii) where the worker normally works for the employer on six days a week and the day of absence is the worker's weekly short day, by one-eleventh or,

(iii) where the worker normally works for the employer on five days a week only, by one-fifth

of the remuneration specified in the table set out in paragraph 4 applicable to the worker;

(*c*) on which the worker performs some work but is absent from work without the consent of his employer for some part of the day, being a part of the day during which the worker is required by or under his contract of employment to work for his employer, by an amount equal to the remuneration which would be payable to the worker if he were paid in respect of the time during which he was so absent from work at the hourly rate of one forty-first of the remuneration specified in the table set out in paragraph 4 applicable to the worker.

(3) Where under the provisions of this paragraph a worker is entitled to remuneration in any week in which he does no work for his employer, the remuneration specified in the table set out in paragraph 4 normally applicable to the worker shall for the purposes of this paragraph be deemed to be the remuneration so specified applicable to the worker in that week.

(4) Where in any week a worker to whom this paragraph applies is in charge of more than one of the types of vehicles specified in the table set out in paragraph 4, the remuneration applicable to him for the purposes of this paragraph in that week shall be the highest set out in the table applicable to him during the week.

4. The table of remuneration referred to in paragraph 3 is as follows:—

Class of worker	Type of vehicle		Remuneration
	Mechanically propelled vehicle with carrying capacity of	Horse-drawn vehicle	£
DRIVER-SALESMEN of any age	Any weight	One or two horse	*16·60*
DELIVERY WORKERS—			
(1) Aged 19 years or over	1 ton or less		
(*a*) *Up to and including 30th December 1973*			
Aged 21 years or over	... ...	... ...	*16·60*
„ 20 and under 21 years	... ...	... ...	*14·05*
„ 19 „ „ 20 „	... ...	... ...	*12·40*
(*b*) *On and after 31st December 1973*			
Aged 19 years or over	... ...	... ...	*16·60*
(2) Aged—			
18 and under 19 years	... ...	... ...	*11·10*
Under 18 years	... ...	... ...	*9·80*
of any age	Over 1 ton and up to 2 tons	One horse ...	*16·60*
	Over 2 tons and up to 5 tons	Two horse ...	*16·90*
	Over 5 tons and up to 8 tons		*17·20*
	Over 8 tons and up to 12 tons		*17·40*
	Over 12 tons		*17·60*

B—OTHER THAN FULL TIME WORKERS

5. The minimum remuneration payable to a driver-salesman or a delivery worker, other than a full time worker is the hourly rate increased by *2p* per hour. For the purposes of this paragraph the hourly rate is the amount obtained by dividing by 41 the remuneration specified in the table in paragraph 4 which would be applicable to the worker if he were a full time worker.

PART IV

MATES

MALE OR FEMALE WORKERS

GENERAL MINIMUM TIME RATES

6. The general minimum time rates applicable to male or female workers employed as mates are as follows:—

	Per week of 41 hours £
(1) Workers aged 19 years or over—	
(*a*) *Up to and including 30th December 1973*	
Aged 21 years or over	*16·10*
„ 20 and under 21 years	*13·20*
„ 19 „ „ 20 „	*11·90*
(*b*) *On and after 31st December 1973*	
Aged 19 years or over	*16·10*
(2) Workers aged—	
18 and under 19 years	*10·45*
17 „ „ 18 „	*8·90*
16 „ „ 17 „	*7·45*
Under 16 years	*6·25*

PART V

OVERTIME AND WAITING TIME

ALL WORKERS

MINIMUM OVERTIME RATES

7. Subject to the provisions of paragraph 3 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 4 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 41 hours	time-and-a-quarter
(ii) thereafter	time-and-a-half

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

(*a*) on a Sunday or customary holiday, for all time worked	double time
(*b*) on a Saturday, for all time worked in excess of 4 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 41 hours	time-and-a-quarter
(ii) thereafter	time-and-a-half

WAITING TIME

8.—(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

9. 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—

(1) Christmas Day; 26th December if it be not a Sunday, 27th December in a year when 25th or 26th December is a Sunday; Good Friday; Easter Monday; the last Monday in May; the last Monday in August (or, where any day is substituted for any of the above days by national proclamation, that day) and any day proclaimed as an additional Bank Holiday or as a public holiday throughout England and Wales, or

(2) in the case of each of the said days such weekday as may be substituted therefor, being either a day recognised by local custom as a day of holiday in substitution for the said day or a day agreed between the employer and the worker or his representative.

"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.

"FULL TIME WORKER" means a driver-salesman or a delivery worker who normally works for the employer for at least 30 hours per week and performs some work to which statutory minimum remuneration applies.

"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 full time delivery workers and full time 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 4 by 41,

(*c*) in the case of delivery workers and driver-salesmen other than full time workers—one and a quarter times, one and a half times and twice the rate calculated in accordance with paragraph 5.

"WAGES REGULATION ORDER" means an order made by the Secretary of State to give effect to wages regulation proposals submitted to him by the Aerated Waters Wages Council (England and Wales).

"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

10. 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 manufacturers 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. 1948/705 (Rev. XXIII, p. 451: 1948 I, p. 4395).

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order, which has effect from 28th December 1972, sets out the statutory minimum remuneration payable in substitution for that fixed by the Wages Regulation (Aerated Waters) (England and Wales) Order 1970 (Order A. (78)), which Order is revoked.

New provisions are printed in italics.

SI 1972/1858
ISBN 0-11-021858-2

