STATUTORY INSTRUMENTS

1972 No. 482

WAGES COUNCILS

The Wages Regulation (Milk Distributive) (England and Wales) (Amendment) Order 1972

Made - - -	23*rd March* 1972
Coming into Operation	23*rd April* 1972

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

Now, therefore, the Secretary of State in exercise of his powers under section 11 of the Wages Councils Act 1959(**a**), 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 (Milk Distributive) (England and Wales) (Amendment) Order 1972.

2.—(1) In this Order the expression "the specified date" means the 23rd April 1972, 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**) shall apply 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.

Signed by order of the Secretary of State.
23rd March 1972.

J. R. Lloyd Davies,
Assistant Secretary,
Department of Employment.

(**a**) 1959 c. 69.

(**b**) 1889 c. 63.

Article 3.

SCHEDULE
HOLIDAYS AND HOLIDAY REMUNERATION

The Wages Regulation (Milk Distributive) (England and Wales) Order 1971(a) (Order M.D. (115)) shall have effect as if in the Schedule thereto:—

1. for paragraphs 16 and 17 there were substituted the following paragraphs:—

"HOLIDAY REMUNERATION

16.—(1) (*a*) Subject to the provisions of this paragraph, for each customary holiday or day in lieu of a customary holiday, which a worker is entitled to be allowed under this Schedule, he shall be paid by the employer one day's holiday pay as defined in *the appropriate part of* paragraph 21:

Provided, however, that payment of the above-mentioned remuneration is subject to the condition that the worker presents himself for employment at the usual starting hour on the first working day following the holiday or day in lieu, or, if he fails to do so, failure is by reason of the proved illness or injury of the worker or with the consent of the employer, and

Provided also that when two customary holidays on both of which the worker is not required to work occur on successive days or so that no working day intervenes, the above proviso shall apply only to the second customary holiday.

(*b*) Subject to the provisions of this paragraph, holiday remuneration in respect of any customary holiday or day in lieu of a customary holiday shall be paid by the employer to the worker on the pay day on which the wages for the first working day following the holiday or day in lieu are paid:

Provided that if a worker ceases to be employed before being allowed a holiday in lieu of a customary holiday to which he is entitled the said payment shall be made immediately upon the termination of his employment.

(2) Subject to the provisions of paragraph 17, a worker qualified to be allowed an annual holiday or any days of additional annual holiday under this Schedule shall be paid by his employer one day's holiday pay as defined in *the appropriate part of* paragraph 21 in respect of each day thereof, and in the case of annual holiday such payment shall be made by the employer on the last pay day preceding such annual holiday.

(3) Where under the provisions of paragraph 13 an annual holiday is allowed in more than one period the holiday remuneration shall be apportioned accordingly.

17. Where any accrued holiday remuneration has been paid by the employer to the worker in accordance with paragraph 18 of this Schedule or with Order M.D. (111) or Order M.D. (113) in respect of employment during any of the periods referred to in that paragraph or those Orders respectively, the amount of holiday remuneration payable by the employer in respect of any annual holiday or days of additional annual holiday for which the worker has qualified by reason of employment during the said period shall be reduced by the amount of the said accrued holiday remuneration unless that remuneration has been deducted from a previous payment of holiday remuneration made under the provisions of this Schedule or of Order M.D. (111) or Order M.D. (113)".

2. for the definition "One Day's Holiday Pay" in paragraph 21 there were substituted the following definition:—

"(10) 'ONE DAY'S HOLIDAY PAY' means:—

(a) S.I. 1971/1698 (1971 III, p. 4635).

in relation to customary holidays, the appropriate proportion of the remuneration which the worker would be entitled to receive from his employer at the date of the customary holiday for work for which statutory minimum remuneration is payable, either—

(*a*) for the number of hours normally worked by him for the employer in his normal working week, or

(*b*) for 42 hours,

whichever number of hours is the less, if paid at the appropriate hourly general minimum time rate for that number of hours' work; and

in relation to annual holiday or additional annual holiday—

(*a*) *in the case of a worker who has at 31st March immediately preceding the commencement of the holiday season (or the last holiday season as the case may require) completed 12 months' service with the employer, the appropriate proportion of whichever of the following amounts is the greatest—*

(*i*) *85% of the average weekly earnings of the worker during the 12 months ended on 5th April immediately preceding the holiday or the termination date, as the case may be, such average weekly earnings to be determined by dividing the total remuneration paid to the worker by the employer during the said 12 months by the number of weeks in respect of which it has been paid; or*

(*ii*) *the holiday remuneration payable for a week of annual or additional annual holiday under the arrangement in force between the employer and the worker at the date of such holiday or at the termination date as the case may be; or*

(*iii*) *the remuneration which the worker would be entitled to receive from his employer at the date of the annual holiday or additional annual holiday or at the termination date, as the case may be, for work for which statutory minimum remuneration is payable, either—*

for the number of hours normally worked by him for the employer in his normal working week, or

for 42 hours,

whichever number of hours is the less, if paid at the appropriate hourly general minimum time rate for that number of hours' work;

(*b*) *in the case of any other worker, the appropriate proportion of a week's holiday remuneration as set out in (a)(iii) above.*

In this definition 'appropriate proportion' means where the worker's normal working week is

5 days—one-fifth; or

4 days—one-quarter; or

3 days—one-third."

EXPLANATORY NOTE

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

This Order, which has effect from 23rd April 1972, amends the Wages Regulation (Milk Distributive) (England and Wales) Order 1971 (Order M.D. (115)) by providing a more favourable basis for calculating holiday remuneration for certain workers.

New provisions are printed in italics.

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