1960 No. 2254

The Wages Regulation (Milk Distributive) (England and Wales) (Holidays) Order, 1960

Made - - - - *5th December,* 1960
Coming into Operation *25th December,* 1960

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

Now, therefore, the Minister, by virtue of the powers conferred on him by 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) (Holidays) Order, 1960.

2.—(1) In this Order the expression "the specified date" means the 25th day of December, 1960, 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 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 Milk Distributive Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1955(c), shall cease to have effect.

Signed by order of the Minister of Labour this 5th day of December, 1960.

Peter J. M. Thomas,
Parliamentary Secretary,
Ministry of Labour.

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 (England and Wales) Wages Regulation (Holidays) Order, 1955 (hereinafter referred to as "Order M.D. (80)").

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63. (c) S.I. 1955/365 (1955 II, p. 2964).

PART I
APPLICATION

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

PART II
ANNUAL HOLIDAY

2.—(1) Subject to the provisions of this paragraph, an employer shall, between 1st April, 1961, and 31st October, 1961, and in each succeeding year between 1st April and 31st October allow a holiday (hereinafter 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 one of the periods of employment set out in the table below and the duration of the annual holiday shall in the case of each such worker be related to that period as follows:—

Period of employment	Duration of annual holiday where the worker's normal working week is:—				
	7 days	6 days	5 days	4 days	3 days
At least 4 weeks but less than 5 ...	1 day	1 day	—	—	—
" " 5 " " " " 6 ...	1 "	1 "	1 day	—	—
" " 6 " " " " 7 ...	1 "	1 "	1 "	1 day	—
" " 7 " " " " 8 ...	2 days	1 "	1 "	1 "	—
" " 8 " " " " 10 ...	2 "	2 days	1 "	1 "	1 day
" " 10 " " " " 11 ...	2 "	2 "	2 days	1 "	1 "
" " 11 " " " " 12 ...	3 "	2 "	2 "	1 "	1 "
" " 12 " " " " 14 ...	3 "	3 "	2 "	2 days	1 "
" " 14 " " " " 15 ...	4 "	3 "	2 "	2 "	1 "
" " 15 " " " " 16 ...	4 "	3 "	3 "	2 "	1 "
" " 16 " " " " 18 ...	4 "	4 "	3 "	2 "	2 days
" " 18 " " " " 20 ...	5 "	4 "	3 "	3 "	2 "
" " 20 " " " " 21 ...	5 "	5 "	4 "	3 "	2 "
" " 21 " " " " 24 ...	6 "	5 "	4 "	3 "	2 "
" " 24 " " " " 25 ...	6 "	6 "	4 "	4 "	3 "
" " 25 " " " " 28 ...	7 "	6 "	5 "	4 "	3 "
" " 28 " " " " 30 ...	8 "	7 "	5 "	4 "	3 "
" " 30 " " " " 32 ...	8 "	7 "	6 "	5 "	3 "
" " 32 " " " " 35 ...	9 "	8 "	6 "	5 "	4 "
" " 35 " " " " 36 ...	10 "	8 "	7 "	5 "	4 "
" " 36 " " " " 39 ...	10 "	9 "	7 "	6 "	4 "
" " 39 " " " " 40 ...	11 "	9 "	7 "	6 "	4 "
" " 40 " " " " 42 ...	11 "	10 "	8 "	6 "	5 "
" " 42 " " " " 44 ...	12 "	10 "	8 "	7 "	5 "
" " 44 " " " " 45 ...	12 "	11 "	8 "	7 "	5 "
" " 45 " " " " 46 ...	12 "	11 "	9 "	7 "	5 "
" " 46 " " " " 48 ...	13 "	11 "	9 "	7 "	5 "
" " 48 " " " " 49 ...	13 "	12 "	9 "	8 "	6 "
" " 49 " " " " 50 ...	14 "	12 "	9 "	8 "	6 "
" " 50 "	14 "	12 "	10 "	8 "	6 "

(2) In this Schedule the expression "holiday season" means in relation to an annual holiday during the year 1961, the period commencing on 1st April, 1961, and ending on 31st October, 1961, and in relation to each subsequent year, the period commencing on 1st April and ending on 31st October in that year.

(3) Notwithstanding the provisions of sub-paragraph (1) of this paragraph:—

(*a*) the number 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;

(*b*) where before the expiration of any holiday season a worker enters into an agreement in writing with his employer that the annual holiday or part thereof shall be allowed on a specified date or dates after the expiration of the holiday season but before the commencement of the next following holiday season, then any day or days of annual holiday so allowed shall for the purposes of this Schedule be treated as having been allowed during the holiday season.

(4) A night worker shall be allowed as a day of annual holiday in his case, a period of 24 hours commencing at noon.

3.—(1) An annual holiday 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 the intervention of a customary holiday on which the worker is not required to work or of some other holiday:

Provided that where the number of days of annual holiday for which a worker has qualified exceeds the number of days constituting his normal working week, the holiday may at the written request of the worker and with the agreement of the employer be allowed in two periods of consecutive working days; so however that when a holiday is so allowed, one of the periods shall consist of a number of such days not less than the number of days constituting the worker's normal working week.

(2) A day of annual holiday under this Schedule may be allowed on a day on which the worker is entitled to a day of holiday or to a half-holiday under any enactment other than the Wages Councils Act, 1959.

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

PART III

HOLIDAY REMUNERATION

5.—(1) Subject to the provisions of paragraph 6, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer, on the last pay day preceding such annual holiday, one day's holiday pay (as defined in paragraph 9) in respect of each day thereof.

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

6. Where any accrued holiday remuneration has been paid by the employer to the worker in accordance with paragraph 7 of this Schedule or with Order M.D. (80) in respect of employment during any of the periods referred to in that paragraph or that Order respectively, the amount of holiday remuneration payable by the employer in respect of any 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.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

7. 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 (hereinafter referred to as "the termination date"), pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the twelve months up to the end of the preceding March, a sum equal to the holiday remuneration 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; and

(2) in respect of any employment since the end 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—

(*a*) no worker shall be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of misconduct and is so informed by the employer at the time of dismissal;

(*b*) where a worker is employed under a contract of service under which he is required to give not less than one week's notice before terminating his employment and the worker without the consent of his employer terminates his employment:—

(i) without having given not less than one week's notice, or

(ii) before one week has expired from the beginning of such notice,

the amount of accrued holiday remuneration payable to the worker shall be the amount payable under the foregoing provisions of this paragraph, less an amount equal to one day's holiday pay multiplied, in the case of (i), by the number of days constituting the worker's normal working week or, in the case of (ii), by the number of days which at the termination date would complete a normal working week commencing at the beginning of the notice.

PART IV

GENERAL

8. 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—

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

(i) he has worked for the employer for not less than *21½ hours* and has performed some work for which statutory minimum remuneration is payable; or

(ii) he has worked for the employer for less than *21½ hours*, or has performed no work, 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 reason shall not exceed eight in any such period as aforesaid); and

(*b*) as if he were employed on any day of annual holiday allowed under the provisions of this Schedule and for the purpose of the provisions of sub-paragraph (*a*) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon for the employer for the number of hours ordinarily worked by him on that day of the week on work for which statutory minimum remuneration is payable.

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

"CUSTOMARY HOLIDAY" means Christmas Day, Boxing Day, Good Friday, Easter Monday, Whit Monday, August Bank Holiday and any day nationally proclaimed as a public holiday, or as an additional bank holiday:

Provided that where it is the custom in any locality instead of any of the said days to observe some other day as a holiday, each such other day shall, for the purposes of this Schedule, be treated in that locality as a customary holiday instead of the day for which it is substituted.

"HOURLY GENERAL MINIMUM TIME RATE" has the same meaning as in the wages regulation order fixing statutory minimum remuneration for the time being in force.

"NIGHT WORKER" means a worker who is ordinarily employed on a spell of duty which starts before and ends after midnight.

"NORMAL WORKING WEEK" means the number of days on which it has been usual for the worker to work in a week while in the employment of the employer during the twelve months immediately preceding the commencement of the holiday season, or, where under paragraph 7 of this Schedule, accrued holiday remuneration is payable on the termination of the employment, during the twelve months immediately preceding the termination date:

Provided that—

(i) for the purpose of calculating the normal working week 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;

(iii) in the case of a night worker, a day is the period of 24 hours commencing at noon.

"ONE DAY'S HOLIDAY PAY" means, where the worker's normal working week is:—

seven days—one-seventh of
six days—one-sixth of
five days—one-fifth of
four days—one-quarter of
three days—one-third of

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

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

(ii) for *43 hours,*

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

"SPELL OF DUTY" means a period of work broken only by intervals for meals.

"STATUTORY MINIMUM REMUNERATION" means minimum remuneration (other than holiday remuneration) fixed by a wages regulation order made by the Minister to give effect to proposals submitted to him by the Milk Distributive Wages Council (England and Wales).

"WEEK" means pay week.

10. 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 25th December, 1960, 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 (England and Wales) Wages Regulation (Holidays) Order, 1955 (Order M.D. (80)), which is revoked.

New provisions are printed in italics.