STATUTORY INSTRUMENTS

1961 No. 1640

WAGES COUNCILS

The Wages Regulation (Milk Distributive) (England and Wales) Order, 1961

Made - - - - 25*th August*, 1961
Coming into Operation 10*th September*, 1961

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) Order, 1961.

2.—(1) In this Order the expression "the specified date" means the 10th day of September, 1961, 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 Wages Regulation (Milk Distributive) (England and Wales) (No. 2) Order, 1960(c), shall cease to have effect.

Signed by order of the Minister of Labour this 25th day of August, 1961.

Alan Green,
Parliamentary Secretary,
Ministry of Labour.

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63.
(c) S.I. 1960/2253 (1960 III, p. 3657).

SCHEDULE

The following minimum remuneration shall be substituted for the statutory minimum remuneration fixed by the Wages Regulation (Milk Distributive) (England and Wales) (No. 2) Order, 1960(a) (Order M.D. (95)).

STATUTORY MINIMUM REMUNERATION

PART I

GENERAL

1.—(1) The minimum remuneration payable in any week to a worker to whom this Schedule applies is the sum of the amounts calculated in accordance with the provisions of (*a*) (i) or (*a*) (ii) and (*b*) and (*c*) below:—

(*a*) For all work except overtime,

(i) in the case of a time worker, the amount yielded by the hourly general minimum time rate applicable to the worker under the provisions of this Schedule; or,

(ii) in the case of a worker employed on piece work, the amount yielded by 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 be applicable if the worker were a time worker;

(*b*) For all overtime and any waiting time, the amount payable under Part III of this Schedule; and

(*c*) Any further amount payable under Part IV of this Schedule.

(2) In this Schedule the expression "hourly general minimum time rate" means the general minimum time rate applicable to the worker under the provisions of Part II of this Schedule divided by the number of hours in the week as defined in the next following paragraph.

2. In Part II of this Schedule, the expression "week" means:—

(*a*) in the case of a worker who is employed by the week or longer period and whose customary working week consists of a number of hours less than 43 but not less than 38, that number of hours;

(*b*) in any other case, 43 hours.

(a) S.I. 1960/2253.

PART II

GENERAL MINIMUM TIME RATES

MALE WORKERS

3. The general minimum time rates applicable to male workers employed in Area A, Area B or Area C are respectively as follows:—

	Area A	Area B	Area C
	Per week	Per week	Per week
	s. d.	s. d.	s. d.
(*a*) FOREMEN	*190 6*	*196 0*	*202 6*
(*b*) STERILIZERS (other than assistant sterilizers), being workers aged 21 years or over	*179 0*	*182 0*	*186 0*
(*c*) CLERKS, being workers aged:—			
21 years or over	*179 0*	*182 0*	*186 0*
20 and under 21 years	*156 6*	*159 6*	*163 0*
19 „ „ 20 „	*143 0*	*145 6*	*149 0*
18 „ „ 19 „	*130 0*	*132 0*	*135 0*
17 „ „ 18 „	*107 6*	*109 0*	*111 6*
16 „ „ 17 „	*94 0*	*95 6*	*97 6*
Under 16 years	*85 0*	*86 6*	*88 6*
(*d*) *ROUNDS SALESMEN*, being workers aged:—			
21 years or over	*181 6*	*184 0*	*188 0*
20 and under 21 years	*163 6*	*165 6*	*169 0*
19 „ „ 20 „	*149 6*	*152 0*	*155 0*
18 „ „ 19 „	*136 0*	*138 0*	*141 0*
Under 18 years	*118 0*	*119 6*	*122 0*
(*e*) SHOP ASSISTANTS, *ASSISTANT ROUNDS SALESMEN*, PASTEURIZERS, ASSISTANT STERILIZERS, and ANY OTHER WORKERS not specified in the foregoing provisions of this Table, being workers aged:—			
21 years or over	*174 6*	*177 0*	*181 0*
20 and under 21 years	*152 6*	*155 0*	*158 6*
19 „ „ 20 „	*139 6*	*141 6*	*145 0*
18 „ „ 19 „	*126 6*	*128 6*	*131 0*
17 „ „ 18 „	*104 6*	*106 0*	*108 6*
16 „ „ 17 „	*91 6*	*93 0*	*95 0*
Under 16 years	*83 0*	*84 0*	*86 0*

FEMALE WORKERS

4. The general minimum time rates applicable to female workers employed in Area A, Area B or Area C are respectively as follows:—

	Area A	Area B	Area C
	Per week	Per week	Per week
	s. d.	s. d.	s. d.
(*a*) *ROUNDS SALESWOMEN*, being workers aged:—			
21 years or over	*168 0*	*169 9*	*175 6*
20 and under 21 years	*151 0*	*153 0*	*158 0*
19 „ „ 20 „	*138 6*	*140 0*	*145 0*
18 „ „ 19 „	*126 0*	*127 6*	*131 6*
Under 18 years	*109 0*	*110 6*	*114 0*
(*b*) CLERKS, being workers aged:—			
21 years or over	*131 6*	*132 0*	*138 6*
20 and under 21 years	*121 6*	*122 0*	*128 0*
19 „ „ 20 „	*112 0*	*112 0*	*117 6*
18 „ „ 19 „	*102 0*	*102 6*	*107 6*
17 „ „ 18 „	*89 0*	*89 0*	*93 6*
16 „ „ 17 „	*79 0*	*79 0*	*83 0*
Under 16 years	*69 0*	*69 6*	*72 6*
(*c*) ALL OTHER WORKERS, being workers aged:—			
21 years or over	*132 0*	*133 6*	*137 6*
20 and under 21 years	*122 0*	*123 6*	*127 0*
19 „ „ 20 „	*112 0*	*113 6*	*117 0*
18 „ „ 19 „	*102 6*	*103 6*	*106 6*
17 „ „ 18 „	*89 0*	*90 0*	*93 0*
16 „ „ 17 „	*79 0*	*80 0*	*82 6*
Under 16 years	*69 6*	*70 0*	*72 0*

MALE OR FEMALE WORKERS IN TWO OR MORE AREAS

5. The general minimum time rate applicable to any worker in any week in which he works in Area A, Area B and Area C or in any two of those areas is:—

(*a*) in the case of a *rounds salesman* or *rounds saleswoman*, the rate which would be applicable if he worked solely in that Area in which is served the majority of the customers on his round;

(*b*) in the case of any other worker, the rate which would be applicable if he worked solely at his depot.

PART III

OVERTIME AND WAITING TIME

OVERTIME

6. Subject to the provisions of paragraph 7, the following minimum remuneration is payable to any worker for overtime:—

(1) In the case of a SIX-DAY WORKER—

(*a*) On any week day, not being the worker's rest day or a customary holiday,

for all time worked in excess of 8½ hours ... ... Time-and-a-half

Provided that on a Saturday (or, in the case of a shop assistant or clerk, any other week day normally allowed as the worker's weekly short day), time-and-a-half shall be payable for all time worked after 3 p.m.	
(*b*) On a Sunday, not being the worker's rest day or a customary holiday—	
(i) for any time worked not exceeding 5 hours	Time-and-a-half for 5 hours
(ii) for all time worked in excess of 5 hours	Time-and-a-half
(*c*) On a Sunday, being also the worker's rest day but not being a customary holiday—	
(i) for any time worked not exceeding 6 hours	Double time for 6 hours
(ii) for all time worked in excess of 6 hours	Double time
(*d*) On the worker's rest day, not being a Saturday, a Sunday or a customary holiday, for all time worked	Time-and-a-half
(*e*) On the worker's rest day being also a Saturday but not being a customary holiday—	
(i) for all time worked before 3 p.m.	Time-and-a-half
(ii) for all time worked after 3 p.m.	Double time
(*f*) On a customary holiday, not being the worker's rest day—	
(i) for any time worked not exceeding 7½ hours	Double time for 7½ hours
(ii) for all time worked in excess of 7½ hours	Double time
(*g*) On a customary holiday, being also the worker's rest day—	
(i) for any time worked not exceeding 7½ hours	Treble time for 7½ hours
(ii) for all time worked in excess of 7½ hours	Treble time
(*h*) In any week, excluding any time for which remuneration is payable under the foregoing provisions of this sub-paragraph other than (*a*)—	
(i) for the first 6 hours worked in excess of 43 hours, or in excess of 37 hours in a week in which the worker works on Sunday not being the worker's rest day ...	Time-and-a-quarter

Provided that in any week the said periods of 43 hours and 37 hours shall each be reduced by 7½ hours in respect of any customary holiday (not being the worker's rest day) on which the worker works in that week.

(ii) for all time worked thereafter — Time-and-a-half

Provided that—

(i) no weekly overtime payment shall be made under (*h*) of this sub-paragraph in any week in which the total period of daily overtime under (*a*) of this sub-paragraph equals or exceeds the total period of the said weekly overtime;

(ii) where the total period of daily overtime under (*a*) of this sub-paragraph is less than the total period of weekly overtime under (*h*), the latter shall be reduced by the period of such daily overtime, which shall be set off first against the weekly overtime payable at the rate of time-and-a-quarter and then, if the case so requires, against the weekly overtime payable at the rate of time-and-a-half.

(2) In the case of a SEVEN-DAY WORKER or of any other worker to whom sub-paragraph (1) of this paragraph does not apply—

(*a*) On any week day, not being a customary holiday—

(i) for the first hour worked in excess of 6½ hours ... ... — Time-and-a-quarter

(ii) for all time worked thereafter — Time-and-a-half

Provided that on a Saturday time-and-a-half shall be payable for all time worked after 3 p.m.

(*b*) On a Sunday, not being a customary holiday—

(i) for any time worked not exceeding 5 hours ... ... — Time-and-a-half for 5 hours

(ii) for all time worked in excess of 5 hours ... ... — Double time

(*c*) On a customary holiday—

(i) for any time worked not exceeding 6½ hours ... ... — Double time for 6½ hours

(ii) for all time worked in excess of 6½ hours ... ... — Double time

OVERTIME BEING NIGHT WORK

7. In the application of the provisions of paragraph 6 to a worker to whom an additional minimum time rate is payable for night work under the provisions of paragraph 9, (*a*) the minimum remuneration for overtime shall be payable only in respect of hours of overtime within the same turn of duty and (*b*) a day shall be deemed to be any period of 24 hours commencing at noon.

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 IV

ADDITIONAL MINIMUM REMUNERATION

NIGHT WORK

9. In addition to the minimum remuneration payable to a worker under Part II or Part III of this Schedule, minimum remuneration at the rate of 8d. per hour is payable to a worker for any time worked between the hours of 9 p.m. and 5 a.m.:

Provided that where a worker commences a spell of work between the hours of 9 p.m. and 5 a.m. and works for less than four hours between those hours he shall be paid as remuneration under this paragraph the sum of 2s. 8d. instead of at the rate of 8d. per hour.

PAYMENT FOR CUSTOMARY HOLIDAYS

10.—(1) Where a worker is not required to work on a customary holiday which falls on a day on which he normally works for the employer, he shall be paid one day's pay.

(2) Where a worker is required to work on a customary holiday which falls on a day on which he normally works for the employer, he shall be paid for such work in accordance with paragraphs 6, 7 and 9.

(3) Where a worker is not required to work on a customary holiday which falls on his rest day, he shall be paid one day's pay.

(4) Where a worker is required to work on a customary holiday which falls on his rest day, he shall be paid for such work in accordance with paragraphs 6, 7 and 9.

(5) Notwithstanding the provisions of sub-paragraphs (1) and (3) of this paragraph, where a worker is not required to work on a customary holiday he shall not be entitled to any payment under those sub-paragraphs unless he—

(*a*) worked for the employer throughout the last working day on which work was available for him preceding the holiday; and

(*b*) presents himself for employment at the usual starting time on the first working day after the holiday:

Provided that—

(i) (*a*) or (*b*), as the case may be, of this sub-paragraph shall be deemed to be complied with where the worker is excused by his employer, or is prevented by his proved illness or injury, from working or presenting himself for employment as aforesaid;

(ii) 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, (*b*) of this sub-paragraph shall apply only to the second customary holiday.

(6) In this paragraph the expression " one day's pay " means 7½ hours' pay at the hourly general minimum time rate normally applicable to the worker in the case of a six-day worker, and 6½ hours' pay at the hourly general minimum time rate normally applicable to the worker in the case of any other worker.

PART V

DEFINITIONS

11. In this Schedule, the following expressions have the meanings hereby assigned to them respectively, that is to say—

(*a*) " AREA A " comprises—

(i) each area in England and Wales which on 31st December, 1937, was administered by a Rural District Council ; and

(ii) each area in England and Wales which on 31st December, 1937, was administered by a Municipal Borough Council or an Urban District Council and which, according to the Registrar General's Statistical Review for 1937, had an estimated resident population (middle 1937) not exceeding 10,000,

but does not include any area within the Metropolitan Police District as existing on 31st December, 1937.

(*b*) " AREA B " comprises the whole of England and Wales other than Area A and Area C.

(*c*) " AREA C " comprises the City of London and the Metropolitan Police District as existing on 31st December, 1937.

(*d*) " CLERK " means a person employed, wholly or mainly, on clerical work.

(*e*) " 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.

(*f*) " FOREMAN " means a person to whom is deputed the duty of exercising supervisory authority over workers exceeding five in number (exclusive of the foreman).

(*g*) " OVERTIME " means work for which minimum remuneration is payable under Part III of this Schedule.

(*h*) " TIME-AND-A-QUARTER ", " TIME-AND-A-HALF ", " DOUBLE TIME " and " TREBLE TIME " mean respectively one and a quarter times, one and a half times, twice and three times the hourly general minimum time rate (exclusive of any amount payable under paragraph 9 in respect of time worked between 9 p.m. and 5 a.m.) which would be payable to the worker for work other than overtime.

(*i*) " REST DAY " means that day of the week on which a six-day worker is not normally required to work.

(*j*) *" ROUNDS SALESMAN "* or *" ROUNDS SALESWOMAN "* means a person who is employed, wholly or mainly, as a salesman on a defined or established route, and is responsible for keeping account of his retail sales to customers and of any cash or tokens received in payment and is not accompanied, save in exceptional circumstances, by any other person who exercises control or supervision.

(*k*) "SHOP ASSISTANT" means a person employed, wholly or mainly, in a shop in serving customers or in checking in and out or in both such operations.

(*l*) "SIX-DAY WORKER" means a worker whose attendance is normally required by the employer on six days only in the week.

PART VI

APPLICABILITY OF STATUTORY MINIMUM REMUNERATION

12. This Schedule applies to workers in relation to whom the Milk Distributive 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 Trade Boards (Milk Distributive Trade, England and Wales) (Constitution and Proceedings) Regulations, 1928(a), which reads as follows:—

"1. Subject as hereinafter provided, the Milk Distributive Trade shall consist of the following operations:—

(i) the wholesale and retail sale of milk;

(ii) the sale of other goods by workers mainly employed in the sale specified in paragraph 1 (i) hereof;

(iii) all work incidental to the sale specified in paragraph 1 (i) hereof.

2. Work incidental to the sale specified in paragraph 1 (i) hereof shall include, *inter alia*:—

(*a*) collecting, delivering, despatching;

(b) pasteurising, sterilising, homogenising, humanising, cooling, separating and all work performed in connection with any other processes in the preparation of milk;

(*c*) blending, testing and sampling of milk;

(*d*) cleaning of utensils, receptacles, vehicles, premises, plant, machinery;

(*e*) stoking, attending to boiler, plant or machinery, fire lighting, portering of coal or other fuel;

(*f*) horse keeping and harness cleaning;

(*g*) portering, lift or hoist-operating, time-keeping, storing, stock-keeping, warehousing;

(*h*) boxing, parcelling, labelling, weighing, measuring, checking, bottling, packing and unpacking;

(*i*) clerical work or canvassing carried on in conjunction with the work specified in paragraph 1 hereof.

3. Notwithstanding any of the foregoing provisions, the Milk Distributive Trade shall not include any of the following operations:—

(*a*) the wholesale sale of milk (and operations incidental thereto) from an establishment at which milk products are manufactured and from which unseparated milk is not ordinarily sold as such;

(*b*) the wholesale sale of milk direct from the farm where the milk was produced and all operations incidental thereto;

(*c*) the sale of milk in restaurants, shops or similar premises by waiters or shop assistants who are not mainly engaged upon such sale;

(*d*) the transport of goods by common carriers;

(*e*) carting and operations incidental thereto where the business carried on consists exclusively of such operations;

(*f*) work done by or on behalf of the Post Office.

4. For the purpose of this Schedule the expression 'milk' means milk other than dried or condensed milk."

(a) S.R. & O. 1928/480 (1928, p. 1281).

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order, which has effect from 10th September, 1961, sets out the statutory minimum remuneration payable in substitution for that fixed by the Wages Regulation (Milk Distributive) (England and Wales) (No. 2) Order, 1960 (Order M.D. (95)), which is revoked.

New provisions are printed in italics.