STATUTORY INSTRUMENTS

1961 No. 118

WAGES COUNCILS

The Wages Regulation (Milk Distributive) (Scotland) Order, 1961

Made - - - -	*20th January*, 1961
Coming into Operation	*8th February*, 1961

Whereas the Minister of Labour (hereafter in this Order referred to as "the Minister") has received from the Milk Distributive Wages Council (Scotland) 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) (Scotland) Order, 1961.

2.—(1) In this Order the expression "the specified date" means the 8th day of February, 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 Orders 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 (Scotland) Wages Regulation (Holidays) Order, 1953(c) and the Wages Regulation (Milk Distributive) (Scotland) Order, 1960(d), shall cease to have effect.

Dated this twentieth day of January, 1961.

John Hare,
Minister of Labour.

(a) 7 & 8 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63. (c) S.I. 1953/144 (1953 II, p. 2499). (d) S.I. 1960/867.

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SCHEDULE

The following minimum remuneration and provisions as to holidays and holiday remuneration shall be substituted for the statutory minimum remuneration and the provisions as to holidays and holiday remuneration set out in the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1953 (hereinafter referred to as "Order M.D.S. (61)"), and the Wages Regulation (Milk Distributive) (Scotland) Order, 1960 (Order M.D.S. (77)).

PART I

STATUTORY MINIMUM REMUNERATION

GENERAL

1.—(1) Subject to the provisions of paragraphs 4, 6, 7 and 8, the minimum remuneration payable to a worker to whom this Schedule applies for all work except work to which a minimum overtime rate applies under paragraph 5 is:—

(*a*) in the case of a time worker, the hourly general minimum time rate payable to the worker under the provisions 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 be payable if the worker were a time worker.

(2) In this Schedule, the expression "hourly general minimum time rate" means the general minimum time rate applicable to the worker under paragraph 3 divided by the number of hours in the week as defined in the next following paragraph.

2. In paragraph 3 of this Schedule the expression "week" means:—

(*a*) in the case of all workers who are employed by the week or longer period and whose normal number of hours of work in the week (exclusive of any time to which a minimum overtime rate is applicable) is less than *45* (or 44 in the case of a worker under 16 years of age) but not less than 40, that number of hours; or

(*b*) in any other case, *45 hours* (or 44 hours in the case of a worker under 16 years of age).

GENERAL MINIMUM TIME RATES MALE OR FEMALE WORKERS

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

	Per week	
	s.	*d.*
(*a*) *Foremen*	*175*	*6*
(*b*) *Forewomen*	*175*	*6*
(*c*) *Chargehands*	*142*	*0*
(*d*) *Male Clerks aged 22 years or over*	*167*	*0*
(*e*) *The following workers:—*		
(*i*) *All other male workers*		
(*ii*) *Female workers employed on collection or delivery work, in garaging, pasteurising or milk sterilising*		
the said workers being aged:—		
21 years or over	*164*	*0*
20 and under 21 years	*122*	*0*
19 „ „ 20 years	*114*	*0*
18 „ „ 19 years	*104*	*0*
17 „ „ 18 years	*77*	*0*
16 „ „ 17 years	*69*	*0*
under 16 years	*61*	*0*
(*f*) *All other female workers (including Clerks and Shop Assistants) being aged:—*		
21 years or over	*119*	*0*
20 and under 21 years	*97*	*0*
19 „ „ 20 years	*91*	*6*
18 „ „ 19 years	*85*	*6*
17 „ „ 18 years	*64*	*0*
16 „ „ 17 years	*59*	*6*
under 16 years	*54*	*6*

EARLY OR NIGHT WORK

4.—(1) A worker who ordinarily works, wholly or partly, between the hours of 10 p.m. and 6 a.m. shall be paid, in addition to any hourly general minimum time rate or minimum overtime rate payable to him in respect of such work under the provisions of this Schedule, 6d. in respect of each hour or part of an hour worked by him between the said hours of 10 p.m. and 6 a.m.

(2) A worker who is required, in addition to his usual working hours on any day, to work for any time between 12 midnight and 6 a.m. shall be paid in respect of all time worked outside his usual working hours between 12 midnight and 6 a.m. twice the hourly general minimum time rate otherwise applicable to him: Provided that such additional time worked shall not be regarded as time worked for the purpose of calculating any minimum overtime rate.

MINIMUM OVERTIME RATES

5. Subject to the provisions of paragraphs 4, 6, 7 and 8 minimum overtime rates are payable as follows:—

(1) to any worker who normally works for more than 24 hours per week—

(*a*) on the worker's rest day (being a Sunday or a week-day other than a rest day to which (*b*) applies—

(i) for any time worked not exceeding 4 hours ... ... Time-and-a-half for 4 hours

(ii) for all time worked in excess of 4 hours Time-and-a-half

(*b*) on the second rest day where the worker works on two consecutive rest days—

(i) for any time worked not exceeding 4 hours ... ... Double time for 4 hours

(ii) for all time worked in excess of 4 hours Double time

(2) to workers other than those referred to in sub-paragraph (1) above—

(*a*) for work on a customary holiday—

for all time worked ... ... Double time

(*b*) on the worker's rest day (being a Sunday or a week-day) other than a rest day to which (*c*) applies—

for all time worked ... ... Time-and-a-half

(*c*) on the second rest day where the worker works on two consecutive rest days—

for all time worked ... ... Double time

(3) to any worker in any week exclusive of any time in respect of which a minimum overtime rate is payable under the foregoing provisions of this paragraph for all time worked in excess of *45 hours* (or 44 hours in the case of a worker under 16 years of age):—

(*a*) for the first 4 hours worked ... ... Time-and-a-quarter

(*b*) thereafter ... ... Time-and-a-half

REMUNERATION FOR CUSTOMARY HOLIDAYS

6.—(1) This paragraph applies to workers who normally work for the employer for more than 24 hours a week.

(2) Where a worker to whom this paragraph applies—

(*a*) is not required to work on a customary holiday,

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

(*c*) presents himself for employment at the usual starting time on the first working day after a customary holiday,

he shall be paid for the customary holiday the amount to which he would have been entitled under *paragraph 3* had the day not been a customary holiday, and had he worked *on a day other than his rest day* the number of hours ordinarily worked by him on that day of the week (*or 7½ hours in the case of a worker who does not ordinarily work on that day of the week*): Provided that the condition set out in (*b*) or (*c*) of this sub-paragraph shall be deemed to be satisfied 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.

(3) Where a worker to whom this paragraph applies works on a customary holiday and his employer has before the worker's pay day next following the customary holiday entered into an agreement with the worker to allow the worker a holiday in lieu of the customary holiday on a day other than the worker's rest day to be fixed on not less than 6 days' notice by the employer and to fall within 28 days of the customary holiday, the worker shall be paid for his work on the customary holiday as if it were not a customary holiday and for the holiday in lieu of the customary holiday as if it were a customary holiday on which he was not required to work.

(4) Where a worker to whom this paragraph applies works on a customary holiday and there is no such agreement as is mentioned in sub-paragraph (3) of this paragraph, the worker shall be paid the amount to which he would have been entitled under paragraph 3 had the day not been a customary holiday and had he worked *on a day other than his rest day* the number of hours ordinarily worked by him on *the day of the week on which the customary holiday falls* (*or 7½ hours in the case of a worker who does not ordinarily work on that day of the week*), *and in addition* :—

(*a*) where the customary holiday is not the worker's rest day	
(i) for any time worked not exceeding 4 hours	Time rate for 4 hours
(ii) for all time worked in excess of 4 hours ...	Time rate
or	
(*b*) where the customary holiday falls on the worker's rest day other than a rest day to which (*c*) applies	
(i) for any time worked not exceeding 4 hours ...	Time-and-a-half for 4 hours
(ii) for all time worked in excess of 4 hours ...	Time-and-a-half
or	
(*c*) where the customary holiday falls on the worker's second rest day, where the worker works on two consecutive rest days	
(i) for any time worked not exceeding 4 hours	Double time for 4 hours
(ii) for all time worked in excess of 4 hours ...	Double time

7. In this Part of this Schedule the expressions " time rate ", " time-and-a-quarter ", " time-and-a-half " and " double time " mean respectively the hourly general minimum time rate, one and a quarter times, one and a half times, and twice that rate.

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 payable if he were a time worker.

PART II

ANNUAL HOLIDAY AND REMUNERATION FOR ANNUAL HOLIDAY

DURATION OF ANNUAL HOLIDAY

9.—(1) Subject to the provisions of sub-paragraph (3) of this paragraph, an employer shall between 1st April 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 of the periods of employment (calculated in accordance with the provisions of paragraph 16) specified in the table below, and the duration of the holiday shall, in the case of each such worker, be related to his period of employment during that twelve months as follows:—

Period of employment	Duration of annual holiday for workers with a normal working week of —		
	More than five days	Five days	Four days or less
Column 1	Column 2	Column 3	Column 4
At least 48 weeks ...	12 days	10 days	8 days
„ „ 44 „ ...	11 „	9 „	7 „
„ „ 40 „ ...	10 „	8 „	6 „
„ „ 36 „ ...	9 „	7 „	6 „
„ „ 32 „ ...	8 „	6 „	5 „
„ „ 28 „ ...	7 „	5 „	4 „
„ „ 24 „ ...	6 „	5 „	4 „
„ „ 20 „ ...	5 „	4 „	3 „
„ „ 16 „ ...	4 „	3 „	2 „
„ „ 12 „ ...	3 „	2 „	2 „
„ „ 8 „ ...	2 „	1 day	1 day
„ „ 4 „ ...	1 day	1 „	—

(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 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.

10. Subject to the provisions of paragraph 11, 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 that some other holiday, a rest day or a day upon which the worker is not normally required to work for the employer intervenes.

11. A day of annual holiday shall not be allowed to a worker on a rest day or on any day on which he is entitled to a holiday under any enactment other than the Wages Councils Act, 1959.

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

REMUNERATION FOR ANNUAL HOLIDAY

13. Subject to the provisions of paragraph 14, a worker qualified to be allowed an annual holiday under this Schedule shall be paid by his employer in

respect thereof, on the last pay day preceding such annual holiday, remuneration in accordance with the following table:—

TABLE OF HOLIDAY REMUNERATION

Column 1 Period of Annual Holiday	Column 2 Holiday remuneration for workers with a normal working week of—			Column 3
	More than five days	Five days	Four days or less	
12 days	Twice the amount in Column 3.	—	—	The amount which the worker would be entitled to receive from his employer, at the beginning of the holiday, for a week's work, if working his normal working week and the number of daily hours usually worked by him (exclusive of overtime) and if paid as a time worker at the appropriate rate of statutory minimum remuneration, fixed by a wages regulation order in respect of the worker, for work to which that order applies and at the same rate for work (if any) to which that order does not apply.
11 „	One and five-sixths times the amount in Column 3.	—	—	
10 „	One and two-thirds times the amount in Column 3.	Twice the amount in Column 3.	—	
9 „	One and one-half times the amount in Column 3.	One and four-fifths times the amount in Column 3.	—	
8 „	One and one-third times the amount in Column 3.	One and three-fifths times the amount in Column 3.	Twice the amount in Column 3.	
7 „	One and one-sixth times the amount in Column 3.	One and two-fifths times the amount in Column 3.	One and three-quarters times the amount in Column 3.	
6 „	The amount in Column 3.	One and one-fifth times the amount in Column 3.	One and one-half times the amount in Column 3.	
5 „	Five-sixths of the amount in Column 3.	The amount in Column 3.	One and one-quarter times the amount in Column 3.	
4 „	Two-thirds of the amount in Column 3.	Four-fifths of the amount in Column 3.	The amount in Column 3.	
3 „	One-half of the amount in Column 3.	Three-fifths of the amount in Column 3.	Three-quarters of the amount in Column 3.	
2 „	One-third of the amount in Column 3.	Two-fifths of the amount in Column 3.	One-half of the amount in Column 3.	
1 day	One-sixth of the amount in Column 3.	One-fifth of the amount in Column 3.	One-quarter of the amount in Column 3.	

14. Where in accordance with the provisions of this Schedule, or of Order M.D.S. (61), any accrued holiday remuneration has been paid by the employer to the worker in respect of any period of employment in the twelve months immediately preceding the holiday season within which an annual holiday is allowed by the employer to the worker in accordance with the provisions

of this Schedule, the amount of holiday remuneration payable by the employer in respect of the said annual holiday under the provisions of paragraph 13 shall be reduced by the amount of the said accrued holiday remuneration.

ACCRUED HOLIDAY REMUNERATION PAYABLE ON TERMINATION OF EMPLOYMENT

15. 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, pay to the worker as accrued holiday remuneration:—

(1) in respect of employment in the twelve months up to the 31st day of the preceding March, a sum equal to the holiday remuneration which would have been payable 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) if they were allowed at the time of leaving the employment: and

(2) in respect of any employment since the 31st day 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 no worker shall be entitled to the payment by his employer of accrued holiday remuneration if he is dismissed on the grounds of misconduct in connection with his employment and is so informed by his employer at the time of dismissal.

CALCULATION OF EMPLOYMENT

16. 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:—

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

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

(*b*) (i) he has been absent throughout the week, or

(ii) he has worked for the employer for less than twenty-four hours 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 reasons shall not exceed eight weeks in the aggregate in the period of twelve months immediately preceding the commencement of the holiday season; or

(2) as if he were employed on any day of holiday allowed under the provisions of this Schedule or of Order M.D.S. (61), and for the purposes of sub-paragraph (1) of this paragraph, a worker who is absent on such a holiday shall be treated as having worked thereon the number of hours ordinarily worked by him on that day of the week for the employer on work for which statutory minimum remuneration is payable.

OTHER HOLIDAY AGREEMENTS

17. 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.

PART III

GENERAL

DEFINITIONS

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

(*a*) "Chargehand" means a female person (not being a forewoman) in charge of creamery workers.

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

(*c*) "Customary holiday" means New Year's Day, the local Spring holiday (Monday), the local Autumn holiday (Monday), and two other days being days locally recognised as holidays.

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

(*e*) "Forewoman" means a female person who is in immediate charge of a machine or other apparatus which is operated by five or more workers, excluding the person in charge.

(*f*) "Normal working week" means the number of days on which it has been usual for the worker to work in a week in the employment of the employer in the twelve months immediately preceding the commencement of the holiday season or, where under paragraph 15 accrued holiday remuneration is payable on the termination of the employment, in the twelve months immediately preceding the date of the termination of the employment:

Provided that—

(i) 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.

(*g*) "Rest day" means one day in each week which has been notified by the employer to the worker before the commencement of the week as a rest day or, failing such notification, Sunday, and for the purpose of this definition "day" means a period of 24 hours commencing at midnight: Provided that in relation to a worker who ordinarily works wholly or mainly between the hours of 10 p.m. and 6 a.m. "day" means a period of 24 hours commencing at the time at which the worker ordinarily begins work.

(*h*) "Shop Assistant" means a person employed, wholly or mainly, in a shop as defined in sections 38 and 74 of the Shops Act, 1950(a), in serving customers or in checking in and out or in both such operations.

(*i*) "Statutory minimum remuneration" means statutory minimum remuneration (other than holiday remuneration) fixed by a wages regulation order.

(*j*) "Wages regulation order" means a wages regulation order made by the Minister to give effect to proposals submitted to him by the Milk Distributive Wages Council (Scotland).

(*k*) "Week" in paragraphs 9 and 16 means "pay week".

WORKERS TO WHOM THE SCHEDULE APPLIES

19.—(1) This Schedule applies to workers in relation to whom the Milk Distributive Wages Council (Scotland) operates, that is to say workers employed in

(a) 14 Geo. 6. c. 28.

Scotland in the operations in the Milk Distributive Trade specified in the Schedule to the Trade Boards (Milk Distributive Trade, Scotland) (Constitution and Proceedings) Regulations, 1933(a), namely:—

(i) the wholesale and retail sale of milk;

(ii) the sale of other goods by workers mainly employed in the sale specified in (i) of this sub-paragraph;

(iii) all work incidental to the sale specified in (i) of this sub-paragraph.

(2) Work incidental to the sale specified in sub-paragraph (1) (i) of this paragraph includes, 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 sub-paragraph (1) of this paragraph.

(3) Notwithstanding the foregoing provisions of this paragraph the Milk Distributive Trade does 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 paragraph the expression "milk" means milk other than dried or condensed milk.

EXPLANATORY NOTE

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

This Order, which has effect from 8th February, 1961, sets out the statutory minimum remuneration payable and the holidays to be allowed to workers in substitution for the statutory minimum remuneration fixed and the holidays provided for by the Milk Distributive Wages Council (Scotland) Wages Regulation (Holidays) Order, 1953 (Order M.D.S. (61)), and the Wages Regulation (Milk Distributive) (Scotland) Order, 1960 (Order M.D.S. (77)), which Orders are revoked.

New provisions are printed in italics.

(a) S.R. & O. 1933/ 1123 (Rev. XXIII, p.484: 1933, p. 2045).